



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-10-2025

CORAM

**THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN
THILAKAVADI**

CMP No. 20639 of 2025 in S.A.SR No.118584 of 2025

1. Mr. Eddy
No. 54, St. Marys Church Colony, St.
Marys Road, Abiramapuram, Chennai
600 018. R.L.D. Cruz (Deceased), Alris
(Deceased), Eugene (Deceased)

Petitioner

Vs

1. Archbishop Of Madras- Mylapore
Most Rev. Dr. George Antonysamy, S/o.
Antonysamy, Rep. by his duly
appointed Power Agent, Rev.
Fr.S.Ignatius Thomas, S/o. Late A.S.
Soosai, Res. at Archbishops House,
No.41, Santhome High Road, Chennai
600 004.

2.Archdiocese of Madras - Mylapore
Society
Rep. by its Chairman, Archbishop Of
Madras- Mylapore, Most Rev. Dr.
George Antonysamy, S/o. Antonysamy,



Rep. by his duly appointed Power
Agent, Rev. Fr.S.Ignatius Thomas, S/o.
Late A.S. Soosai, Res. at Archbishops
House, No.41, Santhome High Road,
Chennai 600 004.

Respondent(s)

PRAYER

To condone the delay of 1507 days in filing this S.A.Sr.No. 118584 of 2025 and may pass further such order or any other order as this Court deem fit and proper under the circumstances of the case and thus render justice.

For Appellant(s): Ms. V. VIJAYALAKSHMI

For Respondent(s): Ms.Auxilia Peter for
Respondents

ORDER

This Petition is preferred for final disposal, by consent of both parties.

2. The Petitioner is the 3rd defendant in O.S.No.4987/2014 on the file of XV Assistant City Civil Court, Chennai.

3.The above suit was filed by the respondents for evicting the petitioner/appellant/3rd defendant and to deliver the vacant possession to the respondents/plaintiffs and for mandatory injunction directing the petitioner/appellant to demolish the unauthorized construction of 130 Sq.ft. The trial Court decreed the suit in favour of the respondents/plaintiffs, against which



the present petitioner/appellant/3rd defendant along with other defendants preferred the first appeal in A.S.No.181 of 2018 on the file of the XVI Additional City Civil Court and the first appellate Court dismissed the appeal suit filed by the petitioner/appellant/3rd defendant along with other defendants confirming the judgment and decree passed by the trial Court. Thereafter, the present petition in C.M.P.No.20639 of 2025 is filed by the petitioner/appellant/3rd defendant to condone the delay of 1507 days in preferring this second appeal.

4.The learned counsel appearing for the petitioner/appellant/3rd defendant would submit that the suit was filed against this petitioner/appellant/3rd defendant along with the other defendants who are the parents and brother of the applicant/appellant/3rd defendant and since the other defendants are dead, the case was not properly followed by the erst-while counsel. Hence, the petitioner was unable to prefer the appeal suit in time. She further submitted that the petitioner/appellant/3rd defendant was constrained to approach the High Court, Legal Service Committee, for legal assistance and for appointment of panel counsel to proceed with the second appeal. Hence, the



delay was not wilful and wanton except for the reasons stated in the support affidavit. The affidavit also reiterated the contentions made by the learned counsel for the petitioner. The learned counsel further submits that the son of the petitioner is pursuing 12th standard and that he requires some more time to reside in the disputed premises till completion of his 12th standard examination. Hence, she prayed for to condone the delay of 1057 days in preferring the second appeal.

5. The learned counsel appearing for the respondents/plaintiffs seriously objected the said application and would submit that in fact the delay is 1908 days and no sufficient cause is shown by the applicant to condone the delay in filing the second appeal. She would further submit that the petitioner/appellant/3rd defendant has suppressed the execution proceedings pending on the file of the XXVI Assistant Judge, Allikulam Court, Chennai in E.P.No.2367 of 2020 in which the present petitioner/appellant/3rd defendant is also a party to the proceedings. It is further submitted that during the pendency of the execution proceedings an application under Section 47 CPC was filed to declare the decree in O.S.No.4987 of 2014 in A.S.No.181 of 2018 as null and



void and to dismiss the execution petition filed in E.P.No.2367 of 2020 and all the questions raised in the second appeal were raised in the above Section 47 application. However, the said application was rejected on 02.01.2025 at the stage of maintainability itself and it has reached its finality. Suppressing the above facts, the petitioner/appellant has preferred the present petition only with an intention to see that the fruits of the decree is not enjoyed by the respondents/plaintiffs. She would further submit that, suit for eviction was filed in the year 2014 and neither the petitioner nor the other defendantw entered the witness box to adduce evidence in the joint trial. Along with 12 other connected suits, eviction was ordered on merits on 07.02.2018 by XV Assistant City Civil Court, Chennai in which the petitioner/appellant/3rd defendant denied the title of the respondents / plaintiffs. The appeal suit preferred by the appellant/3rd defendant was also dismissed on 25.04.2018 and now the petitioner/3rd defendant has appointed a new counsel and has preferred the present second appeal with delay of 1509 days where as the actual delay is 1908 days calculated from the date of receipt of certified copy.

6.Learned counsel further submits that another tenant namely Prasath was



also residing in Door No.65, St.Mary's church, colony had sought time to vacate before this Court and this Court granted three months time to vacate by its order dated 03.01.2024 in C.M.P.No.28677 of 2023. While so, the said tenant Prasath moved the SLP and the same was dismissed on merits on 26.01.2024. Since the applicant/appellant/defendant actually participated in the execution proceedings has deliberately suppressed the above facts is not entitled for any leniency by this Court. Hence, the above application filed by the applicant is liable to be dismissed.

7.Heard on both sides and records perused.

8.It is not in dispute that the suit filed by the respondents/plaintiffs in O.S.No.4987 of 2014 was dismissed by the trial Court and confirmed by the First Appellate Court. It is not in dispute that the respondents/plaintiffs filed execution petition in E.P.No.2367 of 2020 in which the applicant preferred an application under Section 47 of CPC and the same was rejected by the Execution Court. Having participated in the above proceedings the applicant/defendant has preferred the present second appeal after a delay of 1509 days or 1908 days. Therefore, the reasons attributed in the support



affidavit cannot be construed as the sufficient cause to condone the above enormous delay in preferring the second appeal. Therefore, considering the above facts and circumstances of the case, this Court is not inclined to show any leniency to the applicant/defendant. Moreover, the facts in the case cited by the learned counsel for the appellant/ defendant is not applicable for the present case.

9. Accordingly, this civil miscellaneous petition stands dismissed as devoid of merits. Consequently, the second appeal is rejected at the SR stage itself. No cost.

09-10-2025

vsn

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To
WEB COPY

1. Archbishop Of Madras- Mylapore
Most Rev. Dr. George Antonysamy, S/o.
Antonysamy, Rep. by his duly
appointed Power Agent, Rev.
Fr.S.Ignatius Thomas, S/o. Late A.S.
Soosai, Res. at Archbishops House,
No.41, Santhome High Road, Chennai
600 004.

2. Archdiocese of Madras - Mylapore
Society
Rep. by its Chairman, Archbishop Of
Madras- Mylapore, Most Rev. Dr.
George Antonysamy, S/o. Antonysamy,
Rep. by his duly appointed Power
Agent, Rev. Fr.S.Ignatius Thomas, S/o.
Late A.S. Soosai, Res. at Archbishops
House, No.41, Santhome High Road,
Chennai 600 004.



WEB COPY

CMP No. 20639 of 2025



**K.GOVINDARAJAN
THILAKAVADI J.**

vsn

**CMP No. 20639 of 2025
in S.A.Sr.118584 of 2025**

09-10-2025