



C.M.P.No.27544 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2025

C O R A M

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.M.P.No.27544 of 2025

in

O.S.A.Sr. No.121173 of 2025

Shantilal Kothari

... Petitioner

-VS-

Sathrasala Sarathbabu

... Respondent

Prayer: Petition filed under Section 5 of the Limitation Act, praying to condone the delay of 1217 days caused in filing the above Original Side Appeal.

For Petitioner : Mr.G.Harihara Arun Soma Sankar

For Respondent : Mr.M.Nauneeth

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.,)

The Miscellaneous Petition has been instituted to condone the delay of 1217 days in filing the Original Side Appeal challenging the judgment dated 19.11.2021 passed in I.P.No.12 of 2010.



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2. The learned counsel for the petitioner would mainly contend that the petitioner has been adjudicated as an insolvent in the order under challenge in the present Original Side Appeal and he has no means even for his own survival. He is unable to meet out the day to day expenditures. Therefore, one cannot expect him to prefer an appeal challenging the order passed in IP.No.12 of 2010. He would further contend that the delay occurred on account of his indigent circumstances. Therefore, a lenient view is to be taken by this Court.

3. The learned counsel for the respondent would strenuously oppose by stating that the contentions of the petitioner are false and incorrect. He was adjudicated as an insolvent in IP.No.12 of 2010 dated 19.11.2021. The Official Assignee has recorded the statement of the insolvent and proceeded with the matter by following the procedures. Under those circumstances, the order passed in IP.No.12 of 2010 was taken by way of an appeal in SLP(Civil) No.362 of 2022 and the Hon'ble Supreme Court of India dismissed the petition for default due to non-appearance of the Advocate on record. Thereafter, the petitioner herein filed Miscellaneous Application Diary No.5747 of 2025 before the Hon'ble Supreme Court to



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set aside the order dated 14.11.2024 dismissing the SLP for default and to restore the SLP. The said petition was also dismissed by the Apex Court of India.

4. This Court is of the considered view that the petitioner made a representation before this Court that he has no means even to meet out his livelihood. Contrarily he has engaged a learned Senior Counsel before the Hon'ble Supreme Court of India and filed Miscellaneous Application to restore the SLP, which was dismissed for default.

5. That apart, the reasons stated for condoning the huge delay of 1217 days are neither candid nor convincing. In the absence of any materials available on record, enormous delay cannot be condoned by the Courts in a routine manner. The law of Limitation is substantive. The Rule is to file an appeal in time. Condonation of delay is an exception. Uncondonable delay cannot be condoned by the Court in a routine manner. Enormous delay, if condoned, may result in causing prejudice to the other party. Therefore, in the absence of any valid and acceptable reasons, long delay will not be condoned by the Courts.



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6. In view of the facts and circumstances, this Civil Miscellaneous
Petition stands dismissed and the appeal stands rejected in the SR stage.

No costs.

(S.M.S,J.,) (C.K,J.,)
12.12.2025

Index: Yes / No
Internet: Yes / No
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