



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

A No. 4902 of 2025

in A. no.1205 of 2025

in C.S. D. No.25376 of 2014

1. Mr.Prasanth Pramanik

S/o.Kannailal Pramanik, No.1, Ramanan
Road, Chennai 600 079.

Applicant(s)

Vs

1. Mr.Akash Khan and another

No.3, Hendricks Lane, Vadamalai
Street, Purasaiwakkam, Chennai 600
007.

2.Mr.Yasmin Khan

W/o.Akash Khan, No.3, Hendricks
Lane, Vadamalai Street,
Purasaiwakkam, Chennai 600 007.

Respondent(s)

PRAYER: This application has been filed under Order XIV Rule 12 of the



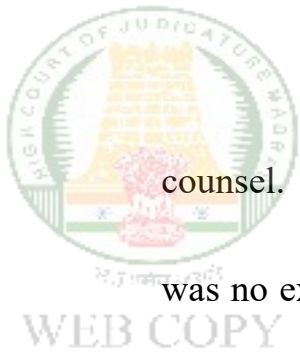
Original Side Rules praying to set aside the impugned order dated 12.08.2025 passed by the learned Master in A. No.1205 of 2025 in condoning the re-presentation delay of 2057 days in A.SR No.148530 of 2019 in A. No.4818 of 2017 in C.S.D. No.25376 of 2014.

For Applicant(s): Mr. S. Veeraraghavan for
M/s.G.Uma Maheswari

ORDER

This application has been filed to recall the order dated 12.08.2025 passed by the learned Master in A. No.1205 of 2025 in condoning the re-presentation delay of 2057 days in A.SR No.148530 of 2019 in A. No.4818 of 2017 in C.S.D. No.25376 of 2014.

2. According to the applicant, he filed an application in A. No.1205 of 2025 to condone delay of 2057 days in re-presenting the records in A.SR. No.148530 of 2019 and the said delay is neither willful nor wanton, but occurred due to bonafide reasons including the COVID-19 pandemic, office shifting and misplacement of bundles by the office bearers. The innocent litigants should not be suffered for the bonafide mistakes and lapses of their



counsel. The learned Master dismissed the said application holding that there was no explanation for the period from March 2022 to January 2025. Whereas in the supporting affidavit it has been stated that continued office misplacement of files, change of staff and lack of knowledge until client follow-up and moreover the counsel's mother died, due to which, the counsel could not to follow the case for the said period. But without considering the same, the learned Master dismissed the application.

3. This Court heard the applicant's side and perused the records.

4. This application has been filed as against the order passed by the learned Master in A. No.1205 of 2025 dated 12.08.2025 dismissing the application for condoning delay of 2057 days for representing A. SR. No.148530 of 2019. According to the applicant, he had filed A. No.4818 of 2017, seeking restoration of his Suit, which had been dismissed for default. Unfortunately, due to spelling mistake in the counsel's name in the online cause list, it was not visible to the counsel and therefore, he could not attend the hearing in time and the application came to be dismissed for default.



Thereafter, an application was filed to restore the said application, which was dismissed for default in D. No.1297 of 2018. Unfortunately, the same was misplaced in the Registry and after a prolonged time, as the same was untraceable, the applicant was advised by the Registry to file an application afresh. Thereby, the applicant filed an application in A. SR. No.148530 of 2019 for condonation of delay of 378 days in filing the restoration petition. The said application was returned for compliance on 06.05.2019. Due to subsequent extraordinary circumstances including the COVID-19 Pandemic, shifting of Advocate office and misplacement of the case bundle with other bundles, delay of 2057 days occurred to re-present the application. Therefore, the applicant filed an application in A. No.1205 of 2025 to condone delay, but the learned Master dismissed the application. The learned Master has not considered the reasons stated by the applicant. Therefore, the order passed by the learned Master is liable to be set aside.

5. Since the matter is in respect of the delay in re-presentation, this Court, even without issuing notice to the respondents, inclined to pass order in this application.



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6. The learned Master dismissed the application on the ground that there is no proper explanation for such huge delay. However, the applicant in the application stated that he filed an application in D. No.1297 of 2018 within time to restore the petition and the same was misplaced by the Registry and thereafter, he filed an application and the same was returned for compliance. Thereafter, due to shifting of office and COVID-19 pandemic and the case records were also mingled with other bundles, there was a delay of 2057 days occurred. Though there is huge delay of 2057 days, that is only for re-presenting the application and the main application was filed within the time.

7. The learned counsel appearing for the applicant has relied upon a judgment in *N. Balakrishnan v. M. Krishnamurthy reported in AIR 1998 Supreme Court 3222*.

On a careful perusal of the above judgment, it is clear that length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable



explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice and there is no presumption that the delay in approaching the Court is always deliberate.

8. In view of the above judgment and as rightly contended by the learned counsel appearing for the applicant, due to the mistake occurred in the Advocate's office, the parties cannot suffer and therefore, in order to meet the ends of justice and to give a fair chance to the parties, it is appropriate to allow this application.

9. Accordingly, this application is allowed and the order passed by the learned Master by dismissing the application in A. No.1205 of 2025 dated 12.08.2025 is set aside.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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