



CMP No. 14577 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-06-2025

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THE HONOURABLE DR JUSTICE G. JAYACHANDRAN

**CMP No. 14577 of 2024
AND AS SR. NO. 151672 OF 2023**

1. Komathi

W/o. Thanthoni, No.12/414, Anna
Nagar, 1st Street, Gandhi nagar,
Kovilampakkam, Chennai-600 117

2. Revathi

W/o. Dhanraj, NO.12/414, Anna Nagar,
1st Street, Gandhi nagar,
Kovilampakkam, Chennai-600 117

Appellant(s)

Vs

1. Suseela

W/o. T.Shanmuga, No.49/41,
Chelliyamman Kovil Street,
Madipakkam, Chennai-600 117

2. Ganapathy

S/o. T.shanmugam, No.14,
Sumgavinagar Street, Brindavan Nagar,
Madipakkam, Chennai-600 091

3. Shanthi

D/o. T.shanmugam, No.49/41,
Chelliyamman Kovil Street,
Madipakkam Post, Chennai-600 117

....Respondents



PRAYER in CMP No. 14577 of 2024: This Petition has been filed under Order 41 Rule 3A of Code of Civil Procedure, to condone the delay of 764 days filing appeal against the judgment and decree passed by the Honourable Principal District Judge Kancheepuram at Chengalpattu in O.S.No.259/2019 dated 22-10-2021.

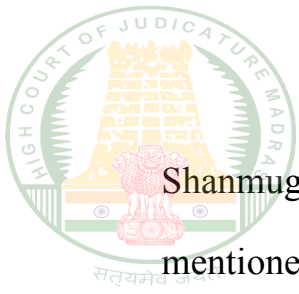
PRAYER in AS SR. No. 151672 of 2023: This Petition has been filed under Section 96 of CPC read with under Order 41 Rule 1 of CPC, against the judgment and decree passed in OS. No.259 of 2019 dated 22.10.2021 passed by the Principal District Judge of Kancheepuram at Chengalpattu.

For Appellant(s): M/s.Na. Malai Saravanan
For Respondent(s): No appearance - RR1 To R3
R2 Steps not taken
(No such person)

ORDER

This Petition has been filed seeking to condone the delay of 764 days filing an appeal against the judgment and decree passed by the Hon'ble Principal District Judge, Kancheepuram at Chengalpattu in O.S.No.259/2019, dated 22-10-2021.

2. The suit for partition filed by the petitioners/appellants on the premise that the suit schedule property was owned by their father and they are the daughters of their father T.Shanmugam born with the first wife Baby and that the respondents/defendants are the second wife and children of the said



Shanmugam. The suit has been filed seeking partition of the schedule mentioned property. After service, the respondents/defendants remained absent.

They were set ex-parte. However, on perusing the records and evidence, the trial Court has found that the petitioners/appellants had not established any right over the suit schedule property to be derived from Shanmugam to be inherited by them.

3. It is specifically stated in the judgment that except the legal heir certificate and the tax receipt in the name of Shanmugam, there is nothing to show that T.Shanmugam had any absolute right or title over the suit schedule property. Being aggrieved, the appeal has been filed with a delay and the notice sent to the respondents/defendants in the delay condonation application was returned with an endorsement "refused".

4. The learned counsel for the petitioner submitted that due to Covid-19 restrictions, the appellants were not able to apply for the judgment and decree copy in time to prefer the appeal. Therefore, there is a delay of 764 days.

5. A perusal of the records, indicates that the judgment was delivered on 22.10.2021. Thereafter, copy application was made on 07.06.2022. It was made ready on 14.06.2022 and delivered on 15.06.2022. Thereafter, the appeal was filed only on 16.02.2024, with a delay of 764 days. This Court after giving anxious consideration, to the fact of the case as well as the reasons stated for the



delay, is convinced that the delay has not been properly explained and the period of moratorium due to pandemic was over much before the date of delivery of the judgment.

6. In such circumstances, the reasons stated for the delay, cannot be accepted as true and genuine. When the reason for the delay is not sufficiently and reasonably explained, the application under Section 5 of the Limitation Act cannot be pressed into service. Hence, the application for condonation of delay stands dismissed. Consequently, connected Appeal Suit is also rejected at the SR stage itself.

06-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The District Judge Kancheepuram at Chengalpattu



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Dr.G.JAYACHANDRAN, J.

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