



WEB COPY

CMP No. 22173 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**CMP No. 22173 of 2025
in
OSA SR.No.162307 of 2024**

P.A.Lakshmi Narayanan
No.1660, 21st Main Road,
Anna Nagar West, Chennai – 600 040.
Now at No.1665/1, 21st Main Road,
Anna Nagar West, Chennai - 040.

Petitioner/Appellant

Vs

M.Annam
New No.20, Old No.5/4,
Gurulakshmi Royal Apartments,
Janakiram Colony Main Road,
Arumbakkam, Chennai - 106.

Respondent/respondent



PRAYER in CMP

WEB COPY

This Civil Miscellaneous Petition has been filed to condone the delay of 363 days in filing the above OSA.

PRAYER in OSA

This Civil Miscellaneous Petition has been filed to set aside the decree and judgment dated 16.10.2023 made in C.S.No.272 of 2021 on the file of the original side of this Court.

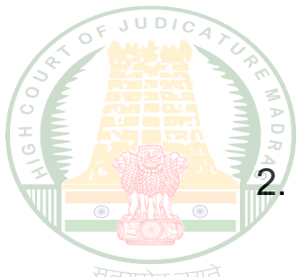
For petitioner Mr. N.L.Rajah,
Senior Counsel
for
Mr. S.Ravichandran

For Respondent Mr. K.V.Babu
for
Mr. B. Thiyagarajan

ORDER

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

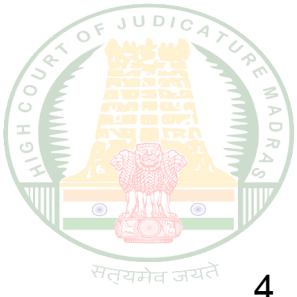
The present Miscellaneous Petition has been instituted to condone the delay of 363 days in filing the original side appeal against the judgment and decree dated 16.10.2023 in C.S.No.272 of 2021.



WEB COPY

2. The Civil suit has been instituted by the respondent herein for recovery of determined arrears of rent. The petitioner herein was a tenant and the respondent is the owner of the property. It is contended that the husband of the respondent/plaintiff inducted the petitioner/defendant as a tenant on 02.06.2000 on a monthly rent of Rs.5000/-. Unfortunately, the husband of the respondent/plaintiff died on 22.02.2004 even before the institution of the suit for recovery of determined rental arrears.

3. The learned Senior counsel Mr. N.L.Rajah, appearing on behalf of the petitioner would mainly contend that the deceased husband of the respondent is the owner of the subject property and therefore, the suit instituted by the respondent itself is not maintainable. No succession certificate has been filed along with the suit in compliance with Section 214 of the Indian Succession Act and therefore, the delay is to be condoned.



WEB COPY

4. Mr.K.V.Balu, learned counsel appearing for the respondent would oppose by stating that all these grounds are adjudicated in the suit and the findings in the judgment would reveal that even one of the co-owners can maintain the suit on behalf of the other co-owners to protect the interest of joint family property. Hence, it cannot be said that there is no right for the co owner to recover the determined rent payable to the family.

5. Be that as it may, the present petition is only to condone the delay of 363 days in filing the present appeal.

6. The reason stated for condoning such a long delay are that the learned counsel for the petitioner applied for the certified copy of the order before the Registry and informed the petitioner/defendant that it will take some time and an appeal can be preferred only after receiving



the certified copy. That apart, the petitioner had undergone bypass surgery during the year 2015 and thereafter, he has to go for regular checkups. He is suffering with diabetic from the month of October 2023 till 2024.

7. Unconardonable delay cannot be excused by the Courts in a routine manner. Law of limitation is substantive . An appeal is to be filed within the time prescribed and condonation of the delay is at the discretion of the Court, which must ascertain the genuineness of the reasons furnished by the petitioner.

8. In the present case, the petitioner is a defendant in the civil suit and he defended the case throughout the suit proceedings. Therefore, he is fully aware of the adjudication as well as the judgment and decree passed in the civil suit. In order to substantiate the medical reasons, no document has been filed along with the present petition. Even the



affidavit filed by the petitioner in the petition shows that he underwent bypass surgery in the year 2015 , but the civil suit itself had been instituted in the year 2021, after a lapse of six years from the date of surgery. Therefore, the reasons stated are neither candid nor convincing. In the absence of any valid reason, the long delay in instituting the appeal cannot be condoned.

9. Since the condonation of delay is not an absolute right, it can be granted only upon examining the reasons and its genuineness. Even on merits, this Court has gone through the facts and found that the suit is for recovery of determined rental arrears between the landlord and tenant. The suit has been decided on merits and after complete adjudication. That being so, the reasons stated for condoning the long delay deserves no merit consideration.



10. Accordingly, the Civil Miscellaneous Petition stands dismissed

and OSA Sr No.162307 of 2024 stands rejected.

WEB COPY

(S.M.S.,J.)

(M.S.Q.,J.)

25-09-2025

Neutral Citation:Yes/No

mrp



WEB COPY

CMP No. 22173 of 2025



**S.M.SUBRAMANIAM J.
AND
MOHAMMED SHAFFIQ J.**

mrp

**CMP No. 22173 of 2025
in
OSA SR N.162367 of 2024**

25-09-2025