



W.M.P. No.43122 of 2024 in W.P. No.1327 of 2020

M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

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

Captioned 'writ miscellaneous petition' [hereinafter 'WMP' for the sake of brevity] has been filed with Condonation of Delay (CoD) prayer *qua* 144 days delay in filing a petition to restore the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] which was dismissed for default/nonprosecution on 04.06.2024.

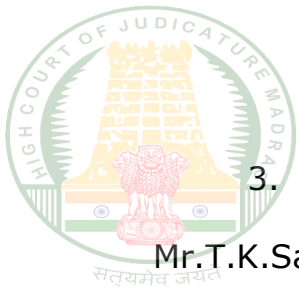
2. Mr. G. Balamaniikandan, learned counsel on record for WMP petitioner is before us and learned counsel draws our attention to paragraph 4 of support affidavit, the scanned reproduction of which is as follows:



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4. The petitioner submits submit that the petitioner had initially engaged a counsel in the above writ petition and he was conducting the case before this Hon'ble Court for some time. Later when there was COVID-19 pandemonium, the counsel stopped practicing before this Hon'ble Court and left for his hometown Tindivanam to start practicing before the courts there. At the time he discontinued the practice before this Hon'ble Court, he gave change of Vakalat to the petitioner to engage another counsel. Accordingly, the petitioner engaged another counsel namely C.Palanisamy to argue and defend the writ petition. Upon the same, the said counsel advised the petitioner to give change of Vakalat for entering appearance. Though the petitioner had given the case bundle to the said counsel, he had not given the change of Vakalat to the changed counsel C.Palanisamy as he had left it behind at his house inadvertently. On reaching home, the petitioner sent the change of Vakalat by post to the said counsel and since then the petitioner was in the bonafide belief that the new counsel would have received it and entered appearance before this Hon'ble Court to argue the writ petition and was expecting the said counsel to keep him informed of the developments in the case in due course of time. The

petitioner was waiting to hear from the said counsel for quite some time and at one point of time since there was no communication from the counsel, he came to the chamber to personally enquire about the status of the writ petition with the said counsel. However, on reaching the chamber of the counsel, the petitioner came to know that he had also stopped practicing before this Hon'ble Court and settled in Dharmapuri to practice before the courts there. Shocked at this, the petitioner approached the present counsel to verify the actual status of the writ petition through online verification from the portal of this Hon'ble Court. Upon the present counsel verifying the status, the petitioner came to know that the writ petition actually came up on 30.04.2024 and due to non-representation, the writ petition was posted again on 04.06.2024 under the caption "for dismissal"; and further due non representation on 04.06.2024 also, the writ petition came to be dismissed.



3. Mr. S. Wilson, learned counsel for R1 (SHRC), Mr.T.K.Saravanan, learned Additional Government Pleader for R2 and Mr.S.Santhosh, learned Government Advocate (Criminal Side) for R3 do not oppose the CoD prayer.

4. R5 (Mr.D.Sivashanmugam) is a learned Member of the Bar and is appearing party-in-person. R5 submitted that a counter affidavit dated 07.03.2025 (counter affidavit does not have jurat) has been filed however R5 very fairly submitted that the CoD prayer can be considered at the discretion of the Court and only made a faint reference to the counter affidavit.

5. Considering the facts and circumstances of the case, nature of the matter and the reason for CoD, more particularly, paragraph 4 of the support affidavit reproduced and extracted *supra*, this Court is convinced that the CoD prayer deserves to be accepted. In this regard, this Court deems it appropriate to record that the writ petitioner is ready to argue the captioned WP today but R5 requests for an accommodation citing difficulty at his end. We have taken this also into account as a parameter for acceding to the CoD prayer.

6. In the light of the narrative thus far, delay of 144 days in filing the restoration petition is condoned and captioned W.M.P. is



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allowed/ordered as prayed for. There shall be no order as to costs.

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(M.S., J.) (H.C., J.)
17.06.2025

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