



C.M.P(MD).No.1391 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	01.07.2025
Pronounced On	:	23.10.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.P(MD).No.1391 of 2023

in

S.A.(MD) Sr. No.72232 of 2022

and

C.M.P.(MD).Nos.2749 of 2023 and 7211 of 2025

C.M.P.(MD).No.1391 of 2023

The State of Tamil Nadu,
Represented by its District Collector,
Pasumpon Muthuramalingam District,
Sivagangai.

...Petitioner

Vs.

R.Ramanathan Chettiar (died)
M.A.Chidambaram Chettiar (died)
M.A.M.Ramasamy Chettiar (died)
1.M.A.M.M.Annamalai Chettiar
2.Meenakshi Aachi
3.Visalakshi Achi
4.Valli Meyyappan
5.M.A.C.Muthaiah Chettiar
6.M.A.M.R.Muthaiah @ Ayyappan
7.Solaimalai



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8.K.Kumar
9.R.M.Sekar
10.S.Pandi
11.M.Pandikumar
12.K.Kannan
13.N.Palaniyappan
14.P.R.Sanmugam
15.A.L.Solai Alagar
16.R.M.Sakthivel ... Respondents

(Respondents 7 to 16 are impleaded as per the order of this Court dated 23.10.2025 made in CMP(MD)No.1391 of 2023 in CMP(MD)Nos. 2749 of 2023 and 7211 of 2025 in SA(MD)SRNo.72232 of 2022 by KKRKJ)

PRAYER:- Civil Miscellaneous Petition has been filed under Order 41 Rule 3 A of C.P.C., to condone the delay of 11926 days in filing the second appeal against the judgment and decree dated 11.05.1988 in A.S.No.1 of 1987 on the file of the learned Subordinate Judge, Devakottai confirming the judgment and decree dated 15.07.1986 passed in O.S.No.38 of 1983 on the file of the learned District Munsif, Devakottai.

For Petitioner :Mr. J.Ravindran
Additional Advocate General,
Assisted by Mr.M.Muthumanickam
Government Advocate

For Respondents :Mrs. A.L.Gandhimathi
Senior Advocate
On behalf of Mr. C.Mahadevan for R1

:Mr.S.Manikandan for R2 to R4

:No appearance for R5

:Mr.Raguvaran Gopalan for R6



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C.M.P.(MD).No.7211 of 2025

1.Meenakshi Achi

2.Visalakshi Achi

3.Valli Meyyappan

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by its District Collector,
Pasumpon Muthuramalingam District,
Sivagangai.

R.Ramanathan Chettiar (died)

M.A.Chidambaram Chettiar (died)

M.A.M.Ramasamy Chettiar (died)

2.M.A.M.Annamalai Chettiar

3.M.A.C.Muthaiah Chettiar

4.M.A.M.R.Muthaiah @ Ayyaappan

.. Respondents

PRAYER:- Civil Miscellaneous Petition filed under Section 151 of C.P.C., to dismiss the application for condonation of delay of 11926 days in C.M.P.(MD).No.1391 of 2023 in S.A.(MD).SR.No.72232 of 2022 on the file of this Court.



C.M.P(MD).No.1391 of 2023

For Petitioner :Mr.S.Manikandan

For Respondents :Mr. J.Ravidran
Additional Advocate General,
Assisted by Mr.M.Muthumanickam
Government Advocate for R1

:Mrs. A.L.Gandhimathi
Senior Advocate
On behalf of Mr. C.Mahadevan for R2

:No appearance for R3

:Mr.Raguvaran Gopalan for R4

C.M.P.(MD).No.2749 of 2023

1.Solaimalai

2.K.Kumar

3.R.M.Sekar

4.S.Pandi

5.M.Pandikumar

6.K.Kannan

7.N.Palaniyappan

8.P.R.Sanmugam

9.A.L.Solai Alagar

10.R.M.Sakthivel

... Petitioners

Vs.

1. The State of Tamil Nadu,

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Represented by its District Collector,
Pasumpon Muthuramalingam District,
(As in High Court appeal)
Sivagangai.

R.Ramanathan Chettiar (died)

M.A.Chidambaram Chettiar (died)

M.A.M.Ramasamy Chettiar (died)

2.M.A.M.M.Annamalai Chettiar

3.Meenakshi Aachi

4.Vissalakshi Achi

5.Valli Meyyappan

6.M.A.C.Muthaiah Chettiar

7.M.A.M.R.Muthaiah @ Ayyappan

.. Respondents

PRAYER:- Civil Miscellaneous Petition filed under Order 1 Rule 10 of C.P.C, to implead the petitioners herein as respondent Nos.7 to 16 in the above C.M.P.(MD).No.1391 of 2023 in S.A.(MD).Sr.No.72232 of 2022.

For Petitioner :Mr.S.Bageerathan

For Respondents :Mr. J.Ravidran
Additional Advocate General,
Assisted by Mr.M.Muthumanickam
Government Advocate for R1

:Mrs. A.L.Gandhimathi



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Senior Advocate
On behalf of Mr. C.Mahadevan for R2

:Mr.S.Manikandan for R3 to R5
: No Appearance for R6

:Mr.Raguvaran Gopalan for R7

ORDER

This Civil Miscellaneous Petition has been filed by the Government to condone the delay of 11926 days in filing the Second Appeal against the judgment and decree dated 11.05.1988 made in A.S.No.1 of 1987 on the file of the learned sub-ordinate Judge, Devakottai confirming the judgment and decree dated 15.07.1986 passed in O.S.No.38 of 1983 on the file of the Learned District Munsif, Devakottai.

2. For better appreciation of the facts and discussion of this case, plaintiff in O.S. No 38 of 1983 on the file of the Learned District Munsif, Devakottai is referred as “decree holder” and the first defendant namely the District Collector is referred as “petitioner” herein and appellant in the second appeal in Sr. No. 72232 of 2022 and other defendants in O.S



No. 38 of 1983 and legal heirs of original plaintiff & defendants 2&3 are referred as respondents in this petition as “respondents” in this petition.

3. The 3rd Respondent Visalakshi Achi is daughter in law of 1st respondent (original plaintiff). 4th respondent Valli Meyyappan is grand daughter of 1st plaintiff. They are arrayed as legal heir of original plaintiff in this case.

4. Averment in suit plaint:

The 1st respondent herein is the plaintiff in O.S.No.38 of 1983 and he had filed the said suit against the District Collector, Ramanathapuram seeking declaration of title to the suit scheduled property to the total extent of 291.80 acres located in Kothadi village @ kothari village in S.No. 43/7, Karaikudi Taluk, Ramanathapuram District. That the vast extent of this property belonged to him and the 2nd and 3rd defendants and it is their absolute property and sought consequential injunction restraining the Government from interfering with their peaceful possession and enjoyment over the said property stating that Raja Sri Annamalai Chettiar and Rao Bahadur Ramasamy Chettiar are his ancestors and Raja Sri Annamalai Chettiar purchased the suit scheduled

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property vide registered sale deed dated 21.04.1929. He had also impleaded respondent No.2 and 3 as defendants 2 and 3 in the suit with specific averment that the said property also belonged to them. The ancestors of the plaintiff were enjoying the properties by building palaces, guest houses and polytechnics and remaining portion of the property was planted with fruit bearing trees and the whole property is their private property and it is in their continuous possession without interference from anybody and by their continuous possession they acquired prescriptive title. Raja Sri Annamalai Chettiar left behind his 3 sons namely Sri Raja M.A. Muthaiah Chettiar, Sri R. Ramanatha Chettiar (Plaintiff) and M.A. Chidambaram Chettiar. The plaintiff was given in adoption to Diwan Bahadur Ramasamy Chettiar, his paternal uncle and brother of Raja Sri Annamalai Chettiar. Raja Sri Annamalai Chettiar purchased the property as a manager of the family and the suit property was divided and each took 1/3 share and the pre-existing title of the plaintiff is still intact. Thereafter, Government notified and took over the possession of the said land under Tamilnadu Estate (Abolition and Conversion into Ryotwari) Act 26, 1948 herein after called “Act 26 of 1948” and hence Raja Sri Annamalai Chettiar had filed petition under the



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Act to claim the title over various properties and the patta was granted barring the suit lands. After taking the lands under the Act 26 of 1948, government refused to receive the revenue charges on the ground that the same was recorded as Assessment Waste Dry and issued notice to remove the encroachment under the Land Encroachment Act. It is also stated that their claim before the settlement officer was dismissed and the same was confirmed in W.P No. 338 of 1976 and the said dismissal of that claim is not a bar to file the suit and therefore they filed a suit for declaration and consequential injunction in the face of continuous threat from Government since 27.04.1982.

5. Averments in the Written statement filed by the Government:

Government filed written statement denying the status of the plaintiff that he was given in adoption to Diwan Bahadthur Ramasamy Chettiar and denied the character of the land as pleaded in the plaint. According to the Government the suit property is dry waste land and the same was taken over by the Government under the Act 26 of 1948 and their claim before the settlement authorities were declined and the plaintiff without disclosing the true particulars filed the suit by

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suppressing the facts. He has no locus standi to seek the prayer as claimed in the suit. The 2nd defendant also filed the written statement stating that the purchase was made by Raja Sri Annamalai Chettiar alone and his brother Diwan Bahadur Ramasamy chettiar has not contributed anything to purchase the property. Raja Sri Annamalai Chettiar who had been enjoying the property absolutely, left a will and bequeathed the scheduled property to his 2 sons and the adopted son namely the plaintiff and therefore plaintiff is entitled to 1/3 share.

6. Decision of courts below and subsequent events:

The learned trial Judge decreed the suit and same was confirmed by the Learned 1st appellate Judge in AS No. 1 of 1987 vide judgment dated 11.05.1988. Thereafter, one Thirumathi. R. Vishalatchi Achi and Valli Meyyappan claiming themselves as legal heirs of Late Ramasamy Chettiar namely the plaintiff in O.S.No.38 of 1983 preferred writ petition in W.P (MD) No. 2673 of 2009 before this court seeking issuance of Ryotwari patta in favor of the family on the basis of the decree in OS No. 38 of 1983 and the same was allowed inspite of the representation made on the side of the Government that the Second Appeal had been preferred

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in SA (Sr) No. 24049 of 2005 and the same was returned by the registry of the principal bench of Madras High Court. The division bench of this Court in W.A. 648 of 2010 dismissed the writ with a direction to give patta subject to the result of the second appeal in SA (Sr) No. 24049 of 2005 and posted the second appeal for hearing on 27.08.2011 before the learned single judge dealing with second appeal for final disposal. Thereafter, another writ petition was filed by Visalatchi Achi, Valli Meyyappan and Meenakshi Achi to issue the ryotwari patta and the same was allowed. Challenging the same Writ appeal was filed in W.A. No. 1462 of 2022 and during the pendency of the writ appeal, present second appeal has been filed along with the petition to condone the delay of 11926 days.

7. Discussion :

The decree holder had filed a suit to declare their right of ownership over “more than 269 acres of land” situated in the Kothari Village, which originally belonged to the then King of Sivagangai. The King executed a lease hold right in favour of one Kasi Viswanatha Naicker, vide Document No.2257/1879 dated 24.11.1879. Again, the said



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king executed the Saswatha Kuthagai Deed regarding large extent of the land. The said Kasiviswanatha Naicker conveyed the said lease hold right in favour of Nagappa Chettiar and Chidambaram Chettiar through the registered document dated 05.08.1886. It is the case of the decree holder that their ancestor Raja Sri Annamalai Chettiar and his brother Rao Bagathur Ramasamy Chettiar got 6.4 acres including the suit lands from the said Nagappa Chettiar and Chidambaram Chettiar vide an unregistered document dated 21.04.1929.

7.1.After the death of Sri Annamalai Chettiar, the Saswatha Kuthagai got devolved on his son Raja Sri Muthaiah Chettiar. The entire Kothari Village was taken over by the Government under the Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act, 26/1948 Act and notified vide G.O.Ms., No.2169, Revenue dated 22.08.1949 and the possession was taken over by the Government on 07.09.1949 and proper notification was issued. Therefore, Raja Sri Muthaiah Chettiar made an application through his authorized agent under Section 15(1) of 26/1948 Act, seeking patta to Assistant Settlement Officer, Tirupattur seeking to withdraw the notification issued by the Government and the same has been ultimately held against Raja Sri Muthaiah Chettiar in the year 1968

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and further revision also was dismissed by order dated 18.08.1969.

7.2.Subsequently, a small extent of the land around 6.40 acres subject to the limit of the Land Ceiling Act, was granted considering the building set up by Raja Sri Muthaiah Chettiar in S.Nos.43/1 to 43/5. In the suit scheduled property of around 291 acres of land there was no building and remained as waste land and hence, their claim was rejected once again by the authorities by order dated 23.12.1972, the same was also confirmed by the Board and thereafter, confirmed by this Court in W.P.No. 339 of 1976 vide order dated 11.08.1978.

7.3.Later, rival claims were made by various persons showing their enjoyment and possession over their land and the same was granted to number of eligible persons and the further claim of Sri Raja Muthaiah Chettiar also was rightly rejected by another order dated 16.04.1981. That being the situation, foster son of Sri Raja Muthaiah Chettiar filed the suit without disclosing the entire above sequence of events and only with the averment that their claim was rejected by the settlement officers constituted under the Act 26/1948, in the year 1983 in O.S.No.38 of 1983 before the learned District Munsif Devakottai to avoid the proceedings under the Tamil Nadu Land Encroachment Act, 1908. In the said plaint, it



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was averred that both the plaintiff and the defendant Nos.2 and 3 are entitled to the suit scheduled property. The defendant Nos.2 and 3 filed the written statement stating that the Raja Muthaiah Chettiar himself claimed that he and his father purchased the property through the Registered sale deed dated 21.04.1929 and the same was not purchased on behalf of the Rao Bahathur Ramasamy Chettiar, ie, adoptive father of the plaintiff Ramanatha Chettiar. During the life time of Annamalai Chettiar, he executed the registered will in favour of the Ramanatha Chettiar, Muthaiah Chettiar and M.A.Chidambaram Chettiar. 7.4.They built a palace, a Guesthouse, and started a polytechnic institution and kept the remaining site for other purpose other than agriculture and the same was called as Chettinadu Colony Area and paying “thiravi (Revenue charge)” till the operation of the Abolition Act, in the year 1948. But, it was not disclosed in the earlier proceedings about the rejection of claim under both the settlement proceedings and other proceedings. The sum and substance of their claim is that their right of lease hold under the unregistered document dated 21.04.1929 otherwise called Saswatha Kuthagai, was bequeathed as a absolute right and title by the Raja Sri Annamalai Chettiar in favour of the defendant Nos. 2 and 3



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and the plaintiff. Before that, their claims before all the tribunals were rejected.

7.5.The suit under the Act 26/1948 is maintainable, in spite of the rejection of the claim under the settlement proceedings provided that they had established their legal rights through the title deed.

8.Submission of learned Additional Advocate general:

According to the learned Additional Advocate General, they have not produced any title deed except the above lease hold right allegedly executed by Nagappa Chettiar and Chidambaram Chettiar in the year 1929 vide, unregistered document dated 21.04.1929.

8.2.Therefore, the learned Additional Advocate General would submit that the suit itself is not maintainable and they obtained the decree for declaration and injunction in a fraudulent manner, without having possession over the larger extent of the land which had already been assigned in favour of many persons and they are keeping the lands which are meant to be used by the Government. Therefore, he would submit that, to that extent, the claim of the Government has to be adjudicated by condoning the delay of more than 11,000 days. He also submitted that the



above factual aspect was brought to the knowledge of this Court only for the purpose of the safeguarding the public interest, more particularly, in the interest of social justice as enshrined in the constitution of India to provide lands to the landless poor and down-trodden. The claim of the plaintiff also is against the Land Ceiling Act, therefore, he marshaled the development of law on the point of condoning the huge delay in filing the appeal by the Government and relied on the following precedents: 2013(12) SCC 649, 2025 LL (SC) 339, 2023 (10) SCC 531, 2024 (7) SCC 433, 2019 (10) SCC 408, 1988 (2) SCC 142. The learned Additional Advocate General would also distinguish the various precedents laid upon by the learned counsel for the respondents.

8.3.The counsel for the impleading petitioner would submit that in this case, stop cap fraudulent arrangement between the authorities and the respondents who were the familiar business man in the State and due to the change of the Government and unusual conduct of the Government Pleader Office, a fraud has been committed in not processing the appeal filed earlier and therefore, huge delay in filing this appeal occurred. He also marshelled the various principles laid down by the Hon'ble Supreme Court to accept the case of the Government to condone the delay.



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9 .Submission of the learned counsel Thiru. S.Manikandan:

On the other hand, the learned counsel Thiru. S.Manikandan would submit that no acceptable and valid reason has been stated in the affidavit to condone the delay of 11926 days and there was no proper particulars furnished as to why the second appeal S.R.No.24049 of 2005 was not properly prosecuted and there was lethargic attitude at every stage on the part of the Government Officials and hence, the Government is not entitled for any liberal consideration in this case.

9.1.The writ petition was filed in W.P.(MD).No.2671 of 2008 to consider their claim of patta on the basis of the civil Court decree and this Court granted direction to consider their claim by order dated 28.11.2008 and the writ appeal also was dismissed with observation to issue patta subject to the result of second appeal by order dated 9.08.2011. Once again, another writ petition was filed in W.P.(MD).No. 17068 of 2016 and the same was allowed on 25.08.2022. Now, the said order has been challenged in W.A.(MD).No.1462 of 2022 and during the hearing, the learned Additional Advocate General became vigilant and



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filed the second appeal in S.A.(MD).Sr.No.72232 of 2022 without pursuing the earlier S.A.(MD).Sr.No.24049 of 2005 and hence, this petition is not maintainable. Apart from that there was no sufficient cause made out in the affidavit filed by the Government to condone the huge delay and also he relied upon the following precedents to treat the case of the government at par with any other citizen without showing any special consideration for the Government authorities to condone the huge delay. More over the learned counsel Thiru.Manikandan also filed an application to reject the application filed by the Government on the ground that there was no sufficient explanation and sufficient reason to condone the delay. The learned counsel also relied on number of judgements:

(i)In the case of Office of the Chief Post Master & ors vs. Living Media India Ltd and another in Civil Appeal Nos.2474 and 2475 of 2012

(ii)In the case of The Administrators vs. M/s.Kakkerla Brother

(iii)In the case of EshaBattarchargee vs. Mg. Commi of Raghunathur Nafar in Civil Appeal Nos.8183 & 8184 of 2013

(iv)In the case of Estate Officer Harya na Urban Dev.Auth vs.



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Gopi Chand Atreja in Civil Appeal Nos.5051 & 5012 of 2009

(v)In the case of Majji Sannemma @ Sanyasirao vs. Reddy Sridevi in Civil Appeal No.7696 of 2021

(vi)In the case of Ajay Dabra vs. Pyare Ram in S.L.P.(C).No. 1225793 of 019

(vii)In the case of State of Madhya Pradesh vs. Ramkumar Choudhary in S.L.P.(c).Dairy No.48636 of 2024

(viii)In the case of Pathapati Subba Reddy (died) by Lrs and others vs. The Special Deputy Collected (LA) in S.L.P.(Civil) No.31248 of 2018

10.Submission of the learned counsel Thiru.Raguvaran

Gopalan:

The learned counsel Thiru.Raguvaran Gopalan, would submit that in this case, there are three stages. 1). From the dismissal of the appeal suit in A.S.No.1 of 1987 dated 11.05.1988 to filing of S.A.(MD).Sr.No. 24049 of 2005; 2). from the date of the order in W.P.(MD).No.2671 of 2008 culminating into dismissal of the writ appeal No.648 of 2010 dated 09.08.2011; 3). from the dismissal of writ in the year of 2011 to 2022. In



each stage there was total lethargy on the part of the Government and hence, there was no proper explanation for the huge delay and he also stated that there is no bar to file the suit dehors the failure to obtain patta in the settlement proceedings under the settlement Act, 26/1948 and therefore, the same has been rightly filed by the plaintiff for the correct relief of declaration and injunction. Therefore, he seeks to dismiss the petition and also relied the number of following precedents:

(i)In the case of State of Gujarat vs. Sayed Md Baquir El Edross reported in 1981 (4) SCC 1

(ii)In the case of State of Nagaland vs. Lipok Ao reported in 2005 (3) SCC 752

(iii)In the case of Pundalik Jalam Patil vs. Executive Engineer Jalgaon reported in 2008 (17) SCC 448

(iv)In the case of Postmaster General vs. Living Media India Limited reported in 2012 (3) SCC 563

(v)In the case of Maniben Devraj Shah vs. Municipal Corporation of Brihan Mumbai reported in 2012 (5) SCC 157

(vi)In the case of H Dohil Constructions Company vs.Nahar Exports Limited reported in 2015 (1) SCC 680



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(vii)In the case of Deputy Conservator of Forests vs. Timblo Irmaos Limited reported in 2021 (14) SCC 516

(viii)In the case of Pathapati Subba Reddy vs. Special Deputy Tahsildar (LA) reported in 2024 SCC Online SC 513

(ix)In the case of DDA vs. Hellow Home Education Society reported in 2024 (3) SCC 148

(x)In the case of Mool Chandra vs. UOI reported in 2025 (1) SCC 625.

11.The learned Senior counsel Mrs.A.L.Gandhimathi also reiterated the above contention raised by the learned counsel Thiru.Manikandan and Thiru.Raghuvaran Gopalan, learned counsel appearing for one of the respondent and also placed the following precedents:

(i).In the case of State of Madhya Pradesh and others vs. Bherulal reported in 2020 (10) SCC 654

(ii).In the case of Lanka Venkateswrlu (Dead) By Lrsvs. State of Andra Pradesh and others reported in 2011 (4) SCC 363

(iii)In the case of Indian Oil Corporation Ltd., vs.Mrs.Sakuntala Ganapathy Rao Proprietor reported in 1998 SCC Online Mad 450



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(iv)In the case of United India Insurance Company Ltd. vs. Pravin Paul reported in 1992 SCC Online Mad 346

12.The learned Additional Advocate General on going through the trial Court judgment would submit that neither the plaintiff nor the defendant Nos.2 and 3 ever came into box and deposed before the Court. The law is well settled unless the plaintiff came and deposed before the Court to substantiate the claim of their title, the Court can not grant decree. They filed the written statement but they never filed any execution proceedings on the basis of the decree obtained by them and curiously filed writ petition before this Court in the year 2008 to claim patta in the reverse direction. The declaration suit must be on the basis of the title deed supported with revenue patta, but, here the suit was filed without proper title deed and claimed revenue patta after the decree without any execution of the decree in O.S.No.38 of 1983. Because of some unforeseen reasons the delay has occurred and there was no fault on the part of the Government. Hence sought for condonation of the delay on the part of the Government Agency. He pleaded before this Court to safeguard the huge extent of Government land by citing the datas

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available with government about the landless persons standing in queue for getting minimum of 2 cents of land and to avoid the unjust enrichment of the huge land by one family that too without any title. The delay has to be condoned. The learned Additional Advocate General also after the elaborate argument furnished the copy of the W.A.(MD).No. 1462 of 2022 passed by this Court wherein, this Court set aside the order of this Court, in W.P.(MD).No.17068 of 2016, wherein the writ Court was pleased to direct to give patta on the basis of the civil Court decree.

13. Material averments in C.M.P.(MD).No.2749 of 2023:

The petitioners in C.M.P.(MD).No.2749 of 2023 obtained various assignment orders after the rejection of the claim made by the Raja Sri Muthaiah Chettiyar under the Act, 15/1948. They are in possession of the portion of the suit scheduled property and without impleading them, the plaintiff filed a suit in O.S.No.48 of 1983 and obtained decree behind their back. Further remaining extent of the lands are under the control of the Government after the possession was taken under the Act vide notification dated 22.08.1949. In all the writ proceedings, the plaintiff's legal heirs had obtained the orders without impleading them. Therefore,



they had filed the suit in O.S.No.170 of 2011 against the legal heirs of the plaintiffs and other family members of the plaintiff. The ad-interim injunction has been granted and subsequently, the said ad-interim injunction order was made absolute on the assurance given by the plaintiff and other family members that they would not disturb the possession of the assignment patta holder till the final order is passed in second appeal filed in S.A.Sr.No.24049 of 2005. Thereafter, the suit was withdrawn by the petitioners. Subsequently, the government had not taken any steps to proceed with the above second appeal in S.A.Sr.No. 24049 of 2005 but, the plaintiffs and the legal heirs insisted the Revenue Department to give patta and hence, they raised the dispute with Revenue Department and the Revenue Officials assured to prosecute the appeal. The plaintiff and his family are highly influential and hence, they apprehended dismissal of this Second appeal in the end and ultimately, their right of holding over the lands on the basis of the assignment would not continue. They had also resisted number of proceedings initiated by the plaintiff's family members after Government had taken the land under the Act 15/1948. Hence, they have filed this application to implead themselves in this proceedings as respondent Nos.7 to 16.



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14. With these elaborate arguments, this Court concluded the hearing and reserved for orders.

14.1. Whether the petitioner/Government made out the case to condone the delay of 11692 days in preferring this appeal?

15. On going through the precedents relied upon by both sides, it is clear that the long delay is not a matter to be seen and only acceptable explanation is the sole criteria. The criteria for condoning the delay is the acceptable reason and not the extent of the delay. The Government has no special privilege to claim condonation of the delay. At the same time, nature of the fraud that had been committed in the course of the trial has to be looked into and where the public interest is at stake and the cause also is reasonable, judicial indulgence is required at the time of considering the appeal filed by the Government with huge delay as in the present case. No absolute law has been laid down by the Hon'ble Supreme Court to dismiss the condone delay petition when the order was obtained by a fraudulent litigation. In such case, the dismissal of the condone delay petition would cause injustice to the public and the social



justice system.
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16. It is also clear from the precedents that when the Government has no direct knowledge about the result of litigation decided against the Government affecting the public and the society at large, then the delay should be liberally viewed. If it is not liberally viewed for no fault of the Government, it will bring the Government to a stand-still. The high level officers, sometimes wake up only later point of time to find out the delay. Their act is condemnable, but because of the officers, the Government should not suffer. The Government is functioning only through the officers. Sometimes the officers are either inactive or lethargic and fail to act to protect the property of the Government, because of their routine transfer, promotion etc. Further, hierarchical system of obtaining the permission to file the appeal also is another reason. The fault on the part of the human agency cannot be put against the Government and Public Interest. There was no presumption in this type of cases that there is a deliberate intention on the part of the Government. Due to the lethargic attitude of the Government officials, there are some cases like land acquisition appeals against the grant of award of compensation in favour of the land owners who had been deprived of their livelihood, in which



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the Hon'ble Supreme Court in the recent past condemned and declined to condone the delay in preferring the appeal, where the land owner lost their land but at the same time, wherever the land of the Government had been attempted to be grabbed without title, against the provision of the Act, and also against the interest of the public, the Hon'ble Supreme Court has followed different yardsticks to condone the delay in order to safeguard the title of the Government over the vast extent of the land. One such case is the present case. The Hon'ble Supreme Court in the case of *Sheo Raj Singh vs. Union of India and another* reported in **2023 (10) SCC 531** led by the Hon'ble Thire. Justice. Dipankar Datta.J.J., has revisited the principles regarding the methodology while deciding the condone delay application filed by the State. The Hon'ble Supreme Court has considered the “Post Master General” case and number of other cases delivered after the “Post Master General case, specifically held that condoning of delay being the discretionary power of the Courts, exercise of the discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation. The length of delay being immaterial, the Hon'ble Supreme Court has accepted the reasoning of the High Court in condoning the inordinate



delay because of the negligence on part of the government functionaries and government counsel. In the above decision of “**Sheo Raj Singh**”, in paragraph No.40, the Hon'ble Supreme Court has referred the Hon'ble larger Bench decision of the Supreme Court reported in 2019 (10) SCC 408 and found that there was hidden forces that are at work in not processing in the appeal and accepted explanation of the state in paragraph No.41 which reads as follows:

“As the aforementioned judgments have shown such an exercise of discretion does, at times, call for a liberal and justice-oriented approach by the courts, where certain leeway could be provided to the state. The hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of limitation so as to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests.”

17.The said decision of the Hon'ble Two Judges Bench “Sheo Raj Singh” was considered by the Hon'ble Three Judges Bench of the Supreme Court in the case of DDA vs. Tejpal and others reported in 28/68



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2024 (7) SCC 433 and accepted the case of the Government on the ground of public interest.

18. Upon the perusal of the entire records and considering the submission of the learned Additional Advocate General and the learned counsel for the respondents, it is seen that there was a claim of 290 acres of land. Whether their entitlement on the basis of the unregistered Saswatha Kuthagai Deed dated 21.04.1929 from the lease holder of the erstwhile kingdom of Sivagangai in O.S.No.38 of 1883 after their rejection of the claim before the competent authority, namely, settlement officer under the Act, of 26/1948 on merits and other subsequent proceedings is to be considered in the second appeal. But, when there is a claim of huge extent of land after the initiation of the proceedings under the encroachment Act, 1908 relating to some extent of the portion of suit property in spite of the bar under the encroachment Act, 1908 and also Land Ceiling Act, this Court is duty bound to thwart the mischief pledged against the Government and set right the miscarriage of justice. To that extent only, this Court refers the dispute (merits of the suit) relating to the Government and the respondents. In the writ appeal, the Hon'ble Division

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Bench of this Court, clearly declined their claim of patta on the basis that their claim was against the Land Ceiling Act.

19.It is also settled principle that in the case of a fraudulent decree, it can be questioned in any of the proceedings by invoking the provision under Article 227 of the constitution of India. This Court has superintendent power over the decision of all the courts. Whenever there is fraud, this Court has the power to rectify the same and to that extent also Section 17 of the Limitation Act, provides for filing of the petition.

20.Apart from that, there is suppression of various orders on the part of the plaintiff which had gone against them in the suit pleadings. When the officials, namely, the human agency have not properly processed the appeal remedy and have not taken decision to contest the claim of the plaintiff and seek its dismissal, by way of filing an appeal, the same cannot be put against the state and public interest. Therefore, the Hon'ble Supreme Court in the reported case 2025 Livelaw (SC) 339 in paragraph No.22 has condoned the delay and issued direction to expedite the hearing of appeal.



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21. Further, the Hon'ble Supreme Court in number of cases has quashed the order obtained by fraud in the collateral proceedings also. It is also known law that the decree can be challenged even in the execution proceedings if it is obtained by fraud or the claim was perpetually barred one and was passed by a Court which lacked inherent jurisdiction. Therefore, this Court recapitulates the principles laid down by the Hon'ble Supreme Court to condone the delay of any appeal before this Court.

21.1. The Hon'ble Supreme Court in the case of Esha Bhattacharjee v. Raghunathpur Nafar Academy, reported in (2013) 12 SCC 649 has held as follows:

21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose



regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a



liberal delineation.

21.9. (ix) *The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

21.10. (x) *If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

21.11. (xi) *It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

21.12. (xii) *The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

21.13. (xiii) *The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

22. *To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*



22.1. (a) *An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

22.2. (b) *An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

22.3. (c) *Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

22.4. (d) *The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.*

21.2.The Hon'ble Supreme Court also in the case of Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn., reported in (2010) 5 SCC 459 has observed that as follows:



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14....The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression “sufficient cause” employed in Section 5 of the Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. Although, no hard-and-fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate. Now upon a close look at the prayer made for condonation of delay is substantial, the same has been sought to be explained in a manner even if it may not be fool proof but is quite convicting.”

21.3.The Hon'ble Supreme Court in the case of **N. Balakrishnan**



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v. M.Krishnamurthy, reported in **(1998) 7 SCC 123** has held as follows:

9. *It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. 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 a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.*

11. *Rules of limitation are not meant to destroy the rights of parties. They are meant to see that*



parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

13. It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If



the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.

21.4.The Hon'ble Supreme Court in the case of **B. Madhuri Goud**
v. B. Damodar Reddy, reported in **(2012) 12 SCC 693**, has held as under:

“6. The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly



observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay.

21.5.The Hon'ble Supreme Court in the case of **Collector (LA) v.**

Katiji, reported in **(1987) 2 SCC 107** has held as follows:

Para 3. The legislature has conferred the power to condone delay by enacting Section 5 [Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the lifepurpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in



matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is



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occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. 6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so. Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the “State” which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the “State” is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the



notemaking, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-non-grata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression “sufficient cause”. So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides.

21.6.The Hon'ble Supreme Court in the case of ***State of W.B. v.***



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Administrator, Howrah Municipality reported in **(1972) 1 SCC 366** has held as under:

26. The legal position when a question arises under Section 5 of the Limitation Act is fairly well-settled. It is not possible to lay down precisely as to what facts or matters would constitute “sufficient cause” under Section 5 of the Limitation Act. But it may be safely stated that the delay in filing an appeal should not have been for reasons which indicate the party's negligence in not taking necessary steps, which he could have or should have taken. Here again, what would be such necessary steps will again depend upon the circumstances of a particular case and each case will have to be decided by the courts on the facts and circumstances of the case. Any observation of an illustrative circumstance or fact will only tend to be a curb on the free exercise of the judicial mind by the Court in determining whether the facts and circumstances of a particular case amount to “sufficient cause” or not. It is needless to emphasise that courts have to use their judicial discretion in the matter soundly in the interest of justice. With the guidelines of the above principles



laid down by the Hon'ble Supreme Court, this Court delves into the facts of this case.

21.7.The Hon'ble Supreme Court in the case of ***Oriental Aroma Chemical Industries Ltd. V. Gujarat Industrial Development Corporation***, reported in ***2010 5 SCC 459*** has held that there is no necessity to prove the explanation in fool proof way but to show convincing reason and the relevant portion is as follows:

“Now upon a close look at the prayer made for condonation of delay we find that although the delay is substantial, the same has been sought to be explained in a manner even if it may not be fool proof but is quite convincing.”

22.The learned Additional Advocate General on the basis of the averment made in the paragraph Nos.21 to 26 of the affidavit filed in support of this petition to condone the delay made a detailed submission elaborating that there was change of Government, consequential change in the Government Pleader's office, absence of the mechanism to follow up the pending cases, returned cases and un-numbered cases in the Government Pleader's office and various laxity on the part of the



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Government officers due to their transfer or other extrinsic reasons. The learned Additional Advocate General also reminded this Court's Suo Motu cognizance of the similar matter of not filing the appeal within time relating to the vast extent of the Government land and asked the Chief Secretary to the Government to frame detailed binding nature of guidelines fixing accountability to monitor the litigation filed against the Government.

23.This Court finds some merits in the submission of the learned Additional Advocate General. The plaintiff's family obtained decree in the year 1986 and dismissal of the appeal suit in the year 1987, against the Government and there was no further progress on the basis of the said decree till 2005. Only in the year 2005, the Government decided to utilise the land for public purpose and the Government had been informed about the judgment and decree passed in the Civil Court and immediately, S.A.Sr.24049 of 2005 had been preferred before the Principal Bench of Madras High Court. The said averment had not been controverted. Filing of the said second appeal also finds place in the order passed by this Court in W.A.(MD).No.48 of 2010. From the above, it is clear that the



legal heirs of the decree holder had taken the steps to get patta only in the year 2006 after filing of the said S.A.Sr.No.24049 of 2005. This Court also perused various counter affidavits filed by the contesting respondents and also other relevant records submitted by the contesting respondents and unable to find any steps taken prior to 2005 by them. Therefore, this Court is inclined to accept the explanation furnished by the learned Additional Advocate General about the knowledge of the decree only in the year 2005 at the level of the Government. Thereafter, due to the change of Government in the two assembly elections, and the change of the Government Pleader's office, change of the Government officials there had been no further follow up action of the S.A.Sr.No. 24049 of 2005.

24.It is also relevant to note the strong observation of the Division Bench of this Court in W.A.(MD).No.48 of 2010 that the case of S.A.Sr.No.24049 of 2005 had to be listed for final disposal before the learned Port folio Judge, but the same had also not been listed as per the direction. Therefore, another round of litigation in filing writ petition on behalf of the legal heirs of the plaintiff had continued in W.P.(MD).No.



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17068 of 2016 and after the order passed in said writ petition, there was change of Government and the Government Officials had not shown interest in protecting the Government property. In the said circumstances, this Court also takes into account the un-controverted specific averment made by the impleading petitioner in C.M.P.(MD).No.2749 of 2023 that the plaintiff's family are “*most influential family in this State*” and that would result in failure in prosecuting the appeal. Therefore, this Court perceives active collusion and fraud at all level in not processing the appeal between the government officials and the respondents from the sequence of the events that had happened from the date of the conclusion of the Appeal Suit in the year 1988, in order to deprive the government title over the vast extent of the land of more than 291 acres. The daring fraudulent act and unholy union to usurp the said large extent of the lands by the various stakeholders and the respondents need not require any pleadings and same can be visualized from the conduct of not processing the appeal.

25.Now, in view of the proceedings in W.A.(MD).No.1462 of 2022, after change of the Government the learned Additional Advocate



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General has unearthed and filed this second appeal and got numbered disclosing all the facts and also giving explanation in paragraph Nos.21 to 26. From the decision of the Hon'ble Supreme Court, in the case reported in *(1987) 2 SCC 107* to the Hon'ble Three Judges Bench of the Supreme Court in *DDA vs. Hellow Home Education Society* reported in *2024 (3) SCC 148*, one undisputed fact which can be understood is that Government runs through the human agency. The said human agency either for extraneous consideration or because of inevitable transfer, disinterest because of the pressure of work had failed to file the appeal and obtain orders on merits to safeguard the public interest, and hence this Court is bound to redress the lapse. The State is represented in the Court through agency. The agency means the officials. Each official may not be present during the entire period of the proceedings. There is administrative transfer, there is promotion etc. The yardstick applied to the individual in the case of private person can not be applied in the case of Government. When the government is running through the agency either the willful or inadvertent act of officers to file an appeal would be brought to the knowledge of the government only at the stage of the final enforcement of the decree.



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26.The new government and the officials also are not aware of the earlier proceedings and not in a position to look into the earlier litigation filed by the earlier government. The said situation continues for every five years and hence, the appeal filed before this Court in the year 2005 is not renewed and appeal was not numbered. The paper also could not have been traced due to the destruction of the records in the Government Pleader office. The officials have also committed mistake by not following up the case. They have the routine transfer and they have not periodically contacted the government pleader office and the government pleader's office also is not having any mechanism to follow up the numbering of the case filed by the Government. In this case, the second appeal was filed in the year 2005. Thereafter, after the change of the government, the present government officials were unable to find out the records and hence, there was a delay of 11926 days. Hence, they filed the fresh second appeal and in view of the fact that the Government officials were unable to find out the returned case papers of the year 2005 and were not able to reconstruct the papers, the Government filed this present condone delay petition giving sufficient reasons stating that they were



unable to trace out the bundle. The said explanation is acceptable in the said circumstance of the present case.

27.As rightly pointed out by the learned Additional Advocate General there was a frequent change of the political scenario in the government pleader office. Once in five years, when ever there was a new government, a new government pleader would be appointed and they would follow the matter.

28.The periodical change in the agency would also lead to huge delay. Hence, this court finds that reasons assigned by the District Collector in his petition is sufficient and finds no deliberate act or gross negligence on the part of Government.

29. Even in the “Post Master General case” the Hon'ble Supreme Court has in clear terms in paragraph Nos.27 to 29 held that if the Government came forward with the reasonable, acceptable explanation for the delay and also about the *bonafide* efforts without gross negligence, a liberal attitude has to be adopted to serve substantial



justice. The Hon'ble Supreme Court observed that delays can be avoided using modern technologies as such facilities are also available. Here, once again the question is, the said technology are used only by human agency engaged by the Government and the human agency commit the same blunder. In the said circumstances, this Court inclines to apply the principle adopted in the case of the temple property and exercised its jurisdiction of “parens patriae” by suitably extracting the following portion of B.K.Mukherjea in his book “The Hindu Law of Religious and Charitable Trust” 2nd Edn., which is justified and approved by the Hon'ble Supreme Court in the case of ***Bishwanath vs. Thakur Radha Ballabhji*** reported in ***AIR 1967 SC 1044*** in paragraph No.11:

11. There are two decisions of the Privy Council, namely, Pramatha Nath Mullick v. Pradyumna Kumar Mullick [(1925) LR 52 IA 245] and Kanhaiya Lal v. Hamid Ali [(1933) LR 60 IA 263] , wherein the Board remanded the case to the High Court in order that the High Court might appoint a disinterested person to represent the idol. No doubt in both the cases no question of any deity filing a suit for its protection arose, but the decisions are authorities for the position that apart from a Shebait, under certain circumstances, the idol can be represented by disinterested



persons. B.K. Mukherjea in his book “The Hindu Law of Religious and Charitable Trust” 2nd Edn., summarizes the legal position by way of the following propositions, among others, at p. 249:

“(1) An idol is a juristic person in whom the title to the properties of the endowment vests. But it is only in an ideal sense that the idol is the owner. It has to act through human agency, and that agent is the Shebait, who is, in law, the person entitled to take proceedings on its behalf. The personality of the idol might therefore be said to be merged in that of the Shebait.

(2) Where, however, the Shebait refuses to act for the idol, or where the suit is to challenge the act of the Shebait himself as prejudicial to the interests of the idol, then there must be some other agency which must have the right to act for the idol. The law accordingly recognises a right in persons interested in the endowment to take proceedings on behalf of the idol.”

This view is justified by reason as well by decisions.

30. Hence, when the human agency failed to work with utmost sincerity in the present system of bureaucracy, the adverse effect would come to the knowledge of the Government only at the stage of the aggravation affecting the administration. In the system of existing bureaucracy and in the system of functioning of Government through the



human agency, if the human agency fail to keep the trust, it would paralyse the functioning of the Government. Therefore, it is relevant to remember the following words of the ***Lindley, M.R., in re National Bank of Wales Ltd:***

“business cannot be carried on upon principles of distrust. Men in responsible positions must be trusted by those above them, as well as by those below them, until there is reason to distrust them.”

31. The Hon'ble Supreme Court, has relied the above, in the case of ***G.Ramegowda vs. Spl Land Acquisition Officer*** reported in (1988) 2 ***SCC 142*** and has held that it takes sometime for the Government to realize that the law officers, Government Officials failed that trust and also held as follows:

“18.while a private person can take instant decision a “bureaucrat of democratic organ” it is said by the learned Judge ‘hesitates and debates consults and considers, speaks through paper, moves horizontally and vertically till at last it gravitates towards a conclusion- unmindful of time and impersonally.”



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32. The said principle of the Hon'ble Supreme Court has been followed by the subsequent decisions by expanding the scope of consideration of condoning the delay of the Government in filing Appeals in such a way by taking a pragmatic approach and not going by a pedantic approach to avoid the miscarriage of justice to public. Public interest is the paramount consideration while considering the plea of Government to condone delay. If it is shown that public interest has suffered owing to acts of the fraud or collusion on the part of the officers or agent and where the officers have failed in their trust, the discretionary relief of condoning delay could be granted. The said principles of the Hon'ble Supreme Court was followed consistently till the decision of the *Post Master General vs. Living Media India Ltd* reported in (2012) 3 SCC 563. The Hon'ble Two Judges Bench of the Supreme Court dismissed the condone delay petition filed by the State. The Hon'ble Supreme Court subsequently also dismissed the petition filed by the Government with delay in the Land Acquisition cases where the land owners were deprived of their right of getting fair compensation unnecessarily by belated filing of the appeal. Parallely, the Hon'ble



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Supreme Court has condoned the delay in the case of the litigation of grabbing the Government land. So the Hon'ble Supreme Court both expressly and impliedly insists duty upon the Courts to decide the condone delay application adopting a pragmatic approach without insisting explanation for each day delay, in order to avoid grave miscarriage to public interest. Therefore, the precedents relied upon by the learned counsel for the respondents decree holder is not applicable to the present case and it is not necessary to subscribe to all the relevant portion of the judgment in view of the latest Judgment of the Hon'ble Three Judges Bench of the Supreme Court, reported in *(2019) 10 SCC 408* and *(2024) 7 SCC 433*.

33. This Court cannot decline to accept the explanation of the learned Additional Advocate General that due to the change of the ruling government, transfer of government officials, change of the Government pleaders, the delay has happened and came to know about the delay at the time of hearing of the writ appeal in W.A.(MD).No.1462 of 2022 and the present Government Officials acted swiftly to file the appeal with delay which of-course is huge.



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34. While dealing with similar circumstances, the Hon'ble **Thiru Justice Dipankar Datta** in the case of **Sheo Raj Singh vs, Union of India** reported in **(2023) 10 SCC 531** has differentiated between an “Excuse” and an “Explanation”, in such a way in paragraph No.32.

35. The said principles has also been approved by the Hon'ble Three Judges Bench of the Supreme Court in the Case of **DDA vs. Tejpal** reported in **(2024) 7 SCC 433**.

35.1.Even in the Post Master Case, the Hon'ble Supreme Court has held as follows:

In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process.



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36. Since decree was passed in O.S.No.38 of 1983, confirmed in A.S.No.1 of 1987 by judgment dated 11.05.1988, it is not fair on the part of this Court to find out who was responsible for the delay or fix responsibility upon the present officer who would possibly say that he joined the post just before filing the present second appeal. Therefore, in the interest of Justice, this court is inclined to accept the reason stated by the Government to condone the delay to serve substantial Justice and also to avoid meritorious case fail on the ground of delay as held by the Hon'ble Supreme Court **2013 (12) SCC 649** and **2005 (3) SCC 752**

37. The averment made in the affidavit paragraph No.21 had not been controverted. The appeal suit was decided against the District Collector and other officers in the year 1989 but, they have not filed any execution proceedings. But, they filed the petition before this Court to claim ryotwari patta and the same has been properly dealt by the Hon'ble Division Bench. This Madurai Bench of Madras High Court, was established on 24.07.2004. Subsequently, the appeal memorandum was filed before Principal Bench, in S.A.Sr.No.24049 of 2005. Further the Hon'ble Division Bench in the order dated 09.08.2011 specifically



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directed the registry to list the SA.Sr.No. 24049 of 2005 before the learned Judge dealing with the second appeal for final disposal. The same was not listed in the year 2011. Subsequently, there was a periodical change of Government and Government Pleaders also. Both the Government and the Government officials had no occasion to deal with the case on the hand. If the said case had been listed there would have been no further complication and further delay would not have occurred. Only at the time of the writ appeal hearing in W.A.No.48 of 2010 and the hearing of the W.A.(MD)No.1462 of 2022, the present Government Officials had addressed the issue and filed the present second appeal in S.A.Sr.No.24049 of 2022 on the account of the absence of the returned papers of the Registry in S.A.Sr.No.24049 of 2005. There was no final adjudication in the S.A.Sr.No.24049 of 2005 and hence, there is no bar to file S.A.Sr.No.24049 of 2022 disclosing the earlier proceedings in S.A.Sr.No.24049 of 2022.

38. Apart from that, the Hon'ble Supreme Court in the case of State of Bihar vs. Kameshwar Prasad Singh reported in 2000 (9) SCC 94 the Hon'ble Three Judges Bench of the Supreme Court has re-iterated the



principle that the procedure is the hand maid of justice and the same cannot be pitted against granting of justice in the following paragraph:

14. Looking into the facts and circumstances of the case, as noticed earlier and with the object of doing substantial justice to all the parties concerned, we are of the opinion that sufficient cause has been made out by the petitioners which has persuaded us to condone the delay in filing the petitions. Dismissing the appeals on technical grounds of limitation would not, in any way, advance the interests of justice but admittedly, result in failure of justice as the impugned judgments are likely to affect not only the parties before us, but hundreds of other persons who are stated to be senior than the respondents. The technicalities of law cannot prevent us from doing substantial justice and undoing the illegalities perpetuated on the basis of the impugned judgments. However, while deciding the petitions, the reliefs in the case can appropriately be moulded which may not amount to unsettle the settled rights of the parties on the basis of judicial pronouncements made by the courts regarding which the State is shown to have been careless and negligent. It is the paramount consideration of this Court to safeguard the interests of all the litigants and persons serving the Police



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Department of the State of Bihar by ensuring the security of their tenure and non-disturbance of accrual of rights upon them under the prevalent law and the rules made in that behalf. Accordingly delay in filing the petitions is condoned.

39.In the case of Inder Singh vs. The State of Madhya Pradesh reported in 2025 Live Law SC 339 the Hon'ble Supreme Court while considering the similar case of the involvement of the valuable land of the Government has held that although a delay cannot be condoned without sufficient cause, the case's merit cannot be discarded solely on the technical grounds of limitation. A liberal approach should be taken in condoning delays when the limitation ground undermines the merits of the case and obstruct substantial justice. The Hon'ble Supreme Court in paragraph No.14 of the judgment in the case of Esha Bhattacharjee vs. Managing Committee of Reghunathapur Nafar Academy and others reported in 2013 (12) SCC 649 has held as follows:

14. In State of Nagaland v. Lipok Ao the Court, after referring to New India Insurance Co. Ltd. v. Shanti Misra , N. Balakrishnan v. M.Krishnamurthy , State of Haryana v. Chandra Mani and Tehsildar



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(LA) v. K.V.Ayisumma, came to hold that adoption of strict standard of proof sometimes fails to protect public justice and it may result in public mischief.

40. Therefore, to achieve the social justice, to protect the public justice and avoid the miscarriage of justice, public mischief this Court is unable to accept the argument of the learned counsel appearing for the respondent that filing of the present S.A.Sr.No.72232 of 2022 is not permissible without prosecuting the S.A.Sr.No.24049 of 2005.

41. The decree was obtained on 15.07.1986 and the same had been confirmed on 11.05.1988. Thereafter, there was no execution petition filed by the decree holder to impute knowledge to the Government officials. In the year 2008 alone, for the first time they filed W.P. (MD).No.2678 of 2008 before this Court and the same has been allowed with direction to consider the claim of the decree holder to get patta. The same was challenged by the Government in W.A.(MD).No.648 of 2010 and the writ appeal was disposed with direction to consider the claim of the decree holder for issuance of the patta subject to the outcome of the



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S.A.Sr.No.24049 of 2005 and thereafter, another W.P.(MD).No.17068 of 2016 was filed to issue patta and the same has been allowed on 25.08.2022. The said order was challenged in W.A.(MD).No.1462 of 2022. The writ appeal was also decided against the decree holder with limited right to file their representation to the Land commissioner who had been directed to consider the claim of patta without any breach of Land Ceiling Act.

42.After the ancestor of the decree holder, had lost in the proceedings under Act 25/1948, the Government has granted assignment in favour of number of persons as per the provisions of the Act 25/1948. Number of landless poor are in occupation of the vast extent of the land and the remaining vast extent of the land is in the custody of the Government as a dry land. Therefore, the case of prejudice as pleaded by the learned counsel for the decree holder in this condoning delay proceedings is also liable to be rejected.

43. Yet another valid submission made by the Government is that the suit prayer itself is against the Land Ceiling Act apart from the other



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contention raised in the suit and the said contention was accepted by the Hon'ble Division Bench of this Court. Therefore, to provide opportunity to the Government and protect the public property to the extent of 290 acres from the respondents who claim right through an unregistered Saswatha Kuthagai deed (lease deed) dated 21.04.1929 from the lease holder right of the erstwhile kingdom of Sivagangai, and also taking into consideration, the rival claim made by the impleading petitioner in C.M.P.(MD).No.2749 of 2023 and the specific undertaking given by the plaintiffs that their claim is subject to the result of the Second Appeal and also the clear rider clause issued by the Hon'ble Division Bench of this Court in W.A.(MD).No.648 of 2010 holding that issuance of the patta is subject to the result of the S.A.Sr.No.24049 of 2005 and also considering the vast extent of the major portion of the village and also considering the specific submission of the learned Additional Advocate General that huge number of poor people are begging the Government for minimum extent of 2 cents of land for their livelihood, allowing the decree of declaration and injunction to the extent of 291 acres of the land to remain as such would amount to not only mockery of justice but also amount to judicial massacre, and hence this Court is inclined to condone the delay



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of 11926 days by awarding costs of Rs.5,00,000/- (Rupees Five lakhs) to the legal heirs of the original plaintiff in O.S.No.38 of 1983. Since the suit property is a valuable government land and their claim patta on the basis of the decree also was not entertained by the Division Bench of this Court, this Court is inclined to condone the delay as it would entail substantial justice to both parties leading to the disposal of the matter on merits.

44. The petitioner in C.M.P.(MD).No.2749 of 2023 also made out a case to get impleaded in this C.M.P, as their right of assignment also is subject to the result of this Second Appeal.

45. *“Everyone has two eyes but no one has same view”* this is a known proverb. This Court's view always march towards the safeguarding public interest, achieving social justice, doing the substantial justice, avoiding the miscarriage of justice and preventing any form of unjust enrichment by exercising parens partie jurisdiction to product the government property. Therefore, this Court holds that delay is properly explained and there is every bonafide in the explanation offered



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by the learned Additional Advocate General to condone the delay of 11926 days in filing the Second Appeal of the above circumstances and hence, this Court inclines to allow the petition in C.M.P.(MD).No.1391 of 2023.

46.This Court declines to accept the contention of the learned counsel for the respondents to the Government has not shown sufficient cause to condone the delay of 11926 days and the petition in C.M.P.(MD).No.7211 of 2025 lacks merits and hence, the said C.M.P.(MD).No. 7211 of 2025 is liable to be dismissed.

47. Accordingly, this Court passes the following order:

47.1. The C.M.P.(MD).No.1391 of 2023 filed to condone the delay of 11926 days is allowed with direction to pay a cost of Rs.5,00,000/- to the legal heirs of the original plaintiff in O.S.No.38 of 1983 on the file of the learned District Munsif-cum-Judicial Magistrate, Devakottai.

47.2. C.M.P.(MD).No.2749 of 2023 stands allowed and the petitioners in C.M.P.(MD).No.2749 of 2023 are hereby directed to be added as parties as the respondents.



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47.3.C.M.P.(MD).No.7211 of 2025 stands dismissed without any order as to costs.

23.10.2025

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Note : Issue order copy on 29.10.2025



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To

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- 1.The learned Subordinate Judge,
Devakottai.
- 2.The learned District Munsif,
Devakottai.
- 3.The Additional Government Pleader,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN.J.

sbn

C.M.P(MD).No.1391 of 2023
in
S.A.(MD) Sr. No.72232 of 2022
and
C.M.P.(MD).Nos.2749 of 2023 and 7211 of 2025

23.10.2025