



CMP(MD) No.1835 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Sixth day of March Two Thousand and Twenty Five

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

C.M.P.(MD).No.1835 of 2024

in

S.A.(MD).SR.No.7381 of 2024

1 R.S.MANOCHARAN

2 R.S.THAMIL SELVAN

3 R.S.RAJA ... PETITIONER(S)

Vs

1 C.ANNALAKSHMI

2 R.S.CHANDRA

3 R.S.BANUMATHI ... RESPONDENT(S)

For Petitioner(s) : Mr.V.S.Rishikesh, Advocate

For Respondent(s) : Mr.S.I.Muthiah, Advocate for R1
No Appearance for R2 & R3

ORDER

The defendants 3 to 5 in O.S.No.1410 of 1998 on the file of the II Additional District Munsif Court, Thiruchirapalli, has filed this petition to condone the delay of



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399 days in filing the second appeal.

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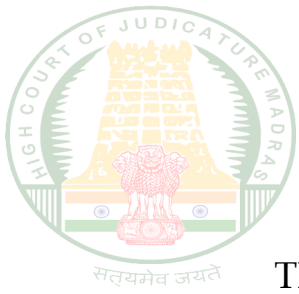
2.In the affidavit, it is specifically averred that due to ill health of third petitioner, he has not filed a petition within a time. Hence, he produced the medical records to substantiate the same.

3.The learned counsel appearing for the respondent would submit that there is no bona fide in the reason stated in the affidavit filed by the petitioner to condone the delay. He would further submit that only after the order in E.P.No.133 of 2023, they filed the second appeal before this Court without stating the bona fide reason.

4.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

5.In the petition, it is stated that due to illness of the third petitioner, the petitioners are unable to present the appeal within the period of limitation. The respondent's counsel submitted that there was no record to prove the illness of the first and second petitioners and they only produced the medical record in respect of the third petitioner alone. Further, this Court is duty bound to bring the principle laid down by the Hon'ble Supreme Court to condone the delay in filing the appeal in the case of N. Balakrishnan v. M. Krishnamurthy, reported in (1998) 7 SCC 123, the relevant paragraphs are extracted hereunder:-

10.The reason for such a different stance is thus:



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The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

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 ut sit finis litium (it is for the



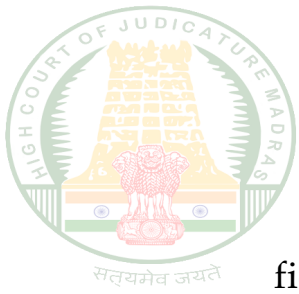
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general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12.A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *vShakuntala Devi Jainv.Kuntal Kumari*[AIR 1969 SC 575 : (1969) 1 SCR 1006] and *State of W.B. v. Administrator, Howrah Municipality*[(1972) 1 SCC 366 : AIR 1972 SC 749] .

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



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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.

6.Applying the above principle, this Court satisfied with the reason stated by the petitioners that the third petitioner alone conducted this case and due to his illness only, there was a delay in filing this second appeal. This Court satisfied with the medical records. Further, this Court finds any wilful negligence on the part of the petitioner and this Court is inclined to accept the bonafide reason. Therefore, this Court is inclined to condone the delay of 399 days in filing the above second appeal in order to render the decision on merits.

7.Accordingly, this petition is allowed on payment of the cost Rs.5,000/-



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payable to the respondents' counsel on or before 28.04.2025, failing which, this
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petition stands dismissed automatically without further reference to this Court.

sd/-
06/03/2025

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/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

ORDER
IN
C.M.P.(MD).No.1835 of 2024
in
S.A.(MD).SR.No.7381 of 2024
Date :06/03/2025

SA/SAR. /21.04.2025/6P/1C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.