



CMP.(MD)No.9708 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

CMP.(MD)No.9708 of 2025

in

CRP.(MD)No.1723 of 2011

1.M.Rajakumar

A.Solomon (Died)

2.Muthu Krishnan

3.K.Maharajan

4.S.Chollamadan

5.P.Darwin Barnsan Mary

6.S.Krishnan

... Petitioners

Vs.

1.The Deputy Registrar of
Cooperative Societies,
Thiruchendur.

2.R.A.X.Valan

3.G.Paulrajan William

... Respondents

Prayer : Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, to condone the delay of 1257 days in filing the application to set aside the order dated 20.08.2019 passed by this Court in CRP.(MD)No.1723 of 2011.



WEB COPY



CMP.(MD)No.9708 of 2025

For Petitioner : Mr.K.Gokul
For R1 : Mr.S.Vinodh,
Government Advocate

ORDER

This civil miscellaneous petition has been filed to condone the delay of 1257 days in filing the application to set aside the order dated 20.08.2019 passed by this Court in CRP.(MD)No.1723 of 2011.

2.Based on the enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act [hereinafter referred as 'the Act'], surcharge proceedings was initiated as against the petitioners and liability was fixed under Section 87 of the Act. The order passed under Section 87 of the Act was challenged before the Tribunal in CMA.(CS)No.12 of 2007. The learned Principal District Judge, Thoothukudi confirmed the surcharge proceedings, by its order dated 29.01.2010. As against the same, civil revision petition has been filed before this Court in CRP.(MD)No.1723 of 2011.

3.When the civil revision petition was taken up for hearing on 20.08.2019, there was no representation on behalf of the



petitioners and therefore, this Court has passed the following order:-

“When the revision was posted on 16.08.2019, there was no representation for the revision petitioner. Hence, the matter is ordered to be posted today (i.e., 20.08.2019) under the caption 'for dismissal'. Today, when the matter is called before lunch, there was a request for pass over. However, when the matter is called once again, there is no representation for the petitioner. In the above circumstances, this civil revision petition is dismissed for non prosecution. No costs. Consequently, connected miscellaneous petition is closed.”

4.To set aside the above said order, the petitioners have preferred this petition with a delay of 1257 days and they have assigned the following reason:-

“4.I submit that the non-appearance of my counsel before the Court is neither willful nor wanton but only due to oversight. My counsel informed about the dismissal of the Civil Revision Petition and advised us to file restoration petition. I am only looking after the case. Due to my illness, I could not contact my counsel. Only in the second week of June 2025, I met my counsel and filed the present applications. But in the meantime, there is some delay in filing the application. The delay is neither willful nor wanton,



but only due to the above said bonafide reason. Unless the delay is condoned and C.R.P. is restored on file, we will be put to serious hardships.”

5.This Court is of the view that it would be relevant to refer to the order passed by the the Hon'ble Supreme Court in ***Post Master General and Others Vs. Living Media India Limited and another [(2012) 3 SCC 563]***, wherein while dealing with the application to condone the delay in filing the appeal, it has been held as follows:-

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29.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 bona fide 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. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

6.The above said position of law was also reiterated by the Honourable Supreme Court in yet another decision rendered in ***(Maniben Devraj Shah vs. Municipal Corporation of Brihan, Mumbai) AIR 2012 Supreme Court 1629*** by holding that delay cannot be condoned as a matter of course unless it is shown that



CMP.(MD)No.9708 of 2025

refusal to condone the delay will result in injury to public interest.

However, if delay is attributable due to lethargy or utter negligence on the part of officials, the delay could not be condoned.

7.In the present case on hand, the reasons adduced by the petitioner are not convincing and it only exposes the sheer lethargy with which the affidavit was filed to get the huge delay of 1257 days condoned in filing a petition to set aside the order dated 20.08.2019.

8.Therefore, this Court is not inclined to condone the delay and entertain this petition. Accordingly, this civil miscellaneous petition is dismissed. No costs.

16.10.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
gns



CMP.(MD)No.9708 of 2025

To
WEB COPY

- 1.The Deputy Registrar of
Cooperative Societies,
Thiruchendur.

- 2.The Principal District Judge,
Thoothukudi



WEB COPY



CMP.(MD)No.9708 of 2025

B.PUGALENDHIJ

gns

CMP.(MD)No.9708 of 2025
in
CRP.(MD)No.1723 of 2011

16.10.2025