



CMP(MD). No.14838 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.12.2025

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

CMP(MD)No.14838 of 2025

in

SA(MD)No.541 of 2009

1.Chellaiya Kothanar (Died)

2.Lokanayaki

3.Amutha

4.Balachandran

5.Kamalavalli

6.Jegadheesan

... Petitioners

Vs

Pushpabai

... Respondent

PRAYER:- To condone the delay of 345 days in filing C.M.P.(MD)SR.No. 58087 of 2025 in SA.(MD)No.541 of 2009 and thus render justice.

For Petitioners : R.Paranjothi

For Respondent : Mr.V.K.Vijaya Ragavan



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ORDER

This petition has been filed to condone the delay of 345 days in seeking to set aside the order passed in the above second appeal on 01.07.2024.

2. The petitioners, in the affidavit, stated that the second appeal was dismissed by this Court on the basis of the representation made by them that a compromise was arrived at between the parties out of Court. The petitioners stated that after the dismissal of the Second Appeal, contrary to the conditions stipulated in the settlement, the respondent insisted on prosecuting the Execution Proceedings and therefore, the petitioners were constrained to file the restoration petition with delay.

3. The respondent filed a counter affidavit stating *inter alia* that the petitioners' averment that there was an out of Court settlement, was a false statement. The respondent stated that in fact, there was no such settlement and that, had such a settlement been entered into, the petitioners would have produced a copy of the same before this Court. The respondent further stated that the fact that the petitioners failed to

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produce the copy of the settlement even now before this Court, shows that there was no such settlement. The respondent, therefore prayed that the petition deserved to be dismissed.

4. When the matter was taken up for hearing, the learned counsel for the petitioners sought adjournment on the ground of likelihood of settlement. However, the learned counsel for the respondent denied the same. The learned counsel for the respondent enquired with the Power Agent, husband of the respondent, who was present in the Court, regarding the supposed settlement talks. The husband of the respondent, Power Agent, vehemently denied the same.

5. Heard both sides and perused the materials placed on record.

6. Admittedly, the Second Appeal was dismissed by this Court on 01.07.2024 on the basis of the endorsement made by the learned counsel for the appellants/petitioners that the matter was settled out of Court. The petitioners state that the respondent violated the terms of the settlement by insisting on prosecuting the execution proceedings and



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therefore, the petitioners were constrained to file the restoration application with the delay of 345 days. In the affidavit filed in support of the aforesaid petition, this Court finds absolutely no justifiable reasons for condoning the huge delay of 345 days except for the aforesaid averment. This Court, in the absence of any justifiable and sufficient reasons for condoning the delay of 345 days, is not inclined to entertain the petition. This Court is of the further view that if there is any violation of the terms of the settlement, the petitioners' remedy would only be by way of fresh proceedings and not by way of restoration of the Second Appeal.

7. Therefore, this Court finds no merit in the petition and hence, this petition stands **dismissed**.

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N.MALA,J

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