

C.M.P.(MD)No.12356 of 2024
and W.A.(MD)No.SR 64992 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.03.2025

CORAM:

THE HON'BLE MRS JUSTICE J. NISHA BANU
AND
THE HON'BLE MRS JUSTICE S.SRIMATHY

C.M.P.(MD)No.12356 of 2024
and W.A.(MD)No.SR 64992 of 2024

1.The Joint Registrar of Cooperative Societies,
Kanyakumari Region,
Collectorate New Building,
2nd Floor, Nagercoil,
Kanyakumari District-629 001.

2.The Deputy Registrar of Cooperative Societies,
Thuckalay Circle, Palace Road,
Thuckalay,
Kanyakumari District-629 175.

...Petitioners/Appellants

Vs

1.C.Mohandhas
2.B.Sreerajan
3.S.Bellet Mabel
4.Jayanthi
5.P.Thangarani
6.P.Malaiappan
7.A.Suresh
8.M.Mohan Dhas
9.R.Rathakrishnan
10.Saseinthira Raj
11.G.Kalidhas



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12.The Kunnathur Primary Agricultural
Cooperative Credit Society Ltd., No.Y-55,
Cooperative Bank Road,
Puthukkadai-629 171,
Vilavancode Taluk,
Kanyakumari District,
Rep.by its Secretary

13.Vijayarani

...Respondents/Respondents

PRAYER in C.M.P.(MD)No.12356 of 2024: Petition-filed Under Clause 5 of the Limitation Act, to condone the delay of 1462 days in preferring the writ appeal against the order passed in W.P.(MD)No.7004 of 2019 dated 03.08.2020.

Prayer in W.A.(MD)No.SR 64992 of 2024:Writ Appeal- filed under Clause 15 of the Letters Patent Act, to set aside the order in W.P.(MD)No.7004 of 2019 dated 03.08.2020.

For Petitioners	: Mr.S.S.Madhavan
	Additional Government Pleader
For R1, R3 to R11	: Mr.M.E.Ilango
For R12 & R13	: No Appearance
R2	: Deceased

ORDER

(Order of the Court was made by **J.NISHA BANU, J.**)

This petition is filed to condone the delay of 1462 days in filing the above writ appeal against the order of this Court dated 03.08.2020 in W.P.(MD)No.7004 of 2019.



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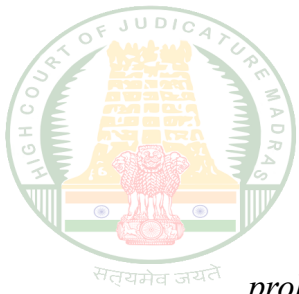
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2. Perusal of the entire affidavit filed in support of this miscellaneous petition reveals that the petitioner has not given any valid ground for the purpose of condoning such a huge delay of 1462 days. Except the reason of administrative delay, not eve a single ground has been stated for the purpose of condoning the delay.

3. In the case of ***A.Edwin Raj vs. A.Ruban David***, where a miscellaneous petition was filed to condone the delay of 505 days, this Court has dismissed the petition vide order dated 09.12.2019, by observing the following:-

“3....

...The law of limitation being substantive, the power of discretion to condone the delay is to be exercised judiciously and cannot be exercised in a routine manner. The parties are expected to approach the Court in adherence to the law of limitation. Thus, filing an appeal is the rule and condoning the delay is the exception, wherein the Courts has to exercise its discretionary power judiciously and by recording reasons. Unexplained delay cannot be condoned. Such unexplained delay is to be construed as an uncondonable delay. Consequently, uncondonable delay cannot be condoned at all. Once there is a delay, a person who is filing the condone delay petition, is expected to furnish reasons which must be acceptable to the Court. In the event of no reason, the Court cannot condone the delay in a mechanical manner, so as to pave way for



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prolongation and protraction of the litigations between the parties and such prolongation causes prejudice to either of the parties to the civil litigations. Thus, the Courts must be cautious, while condoning the delay and the power of discretion is to be exercised, so as to ensure that no prejudice would be caused in the M.P.No.1 of 2015 in AS.No.SR52108 of 2015 event of condoning such a delay to either of the parties. ”

4. In the case of ***Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Others*** reported in **MANU/SC/0932/2013**, the Hon’ble Apex Court of India made the following observations:

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

- 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.*
- 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 M.P.No.1 of 2015 in AS.No.SR52108 of 2015 applied in proper perspective to the obtaining fact- situation.*
- iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*
- 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*



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

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.*

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

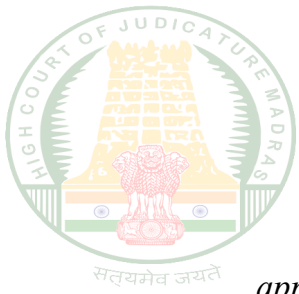
viii) *There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

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 M.P.No.1 of 2015 in AS.No.SR52108 of 2015 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.*

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.*

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.*

xii) *The entire gamut of facts are to be carefully scrutinized and the*



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approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

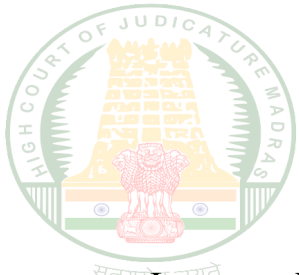
xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”

5. It is very important to consider the judgement of the Hon'ble Supreme Court in the case of ***Esha Bhattacharjee***, wherein the Hon'ble Apex Court laid down certain principles which were culled out particularly and those principles are the guiding principles for the purpose of deciding the petitions filed to condone the delay.

6. In view of the legal principles and the facts and circumstances in the present case on hand, this Court is of an opinion that the petitioner has not made out any acceptable ground for the purpose of condoning the delay and consequently, the miscellaneous petition in C.M.P.(MD)No.12356 of 2024 is devoid of merits and the same stands dismissed. Accordingly, W.A.(MD).SR. 64992 of 2024 is rejected at the SR Stage itself. No costs.

(J.N.B.,J.) (S.S.Y.,J.)
03.03.2025

Index : Yes/No



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