



CMP(MD) No.1967 of 2025

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

Wednesday, the Nineteenth day of March Two Thousand and Twenty Five

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CMP(MD) No.1967 of 2025
in
SA(MD) SR No.95244 of 2024

1 VIJAYAN @ ALAGARSAMY
S/O.GURUSAMY NAYAKAR,
DOOR NO.11/3, KELLA THERU,
KAPPALUR VILLAGE, THIRUMANGALAM TALUK,
MADURAI DISTRICT.

... PETITIONER(S)

Vs

1 A.R.MURUGESAN
S/O.RAJU ALIAS GURUSAMY NAIKAR,
DOOR NO.3/10, KEEZHA THERU,
KAPPALUR VILLAGE, THIRUMANGALAM TALUK,
MADURAI DISTRICT.

2 A.R.KANDASAMY ALIAS SELVAM
S/O.RAJU ALIAS GURUSAMY NAIKAR,
DOOR NO.3/10, KEEZHA THERU,
KAPPALUR VILLAGE, THIRUMANGALAM TALUK,
MADURAI DISTRICT.

3 SELVAM ALIAS ALAGARSAMY
S/O.ALAGARSAMY, DOOR NO.13/3, KEEZHA THERU,
KAPPALUR VILLAGE, THIRUMANGALAM TALUK,
MADURAI DISTRICT.

... RESPONDENT(S)



CMP(MD) No.1967 of 2025

For Petitioner: Mr.F.X.Eugene, Advocate
For Respondents: Mr.K.Sudalaiyandi, Advocate

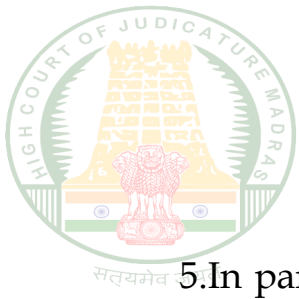
ORDER

The appellant/plaintiff in O.S.No.60 of 2006 on the file of the District Munsif Court, Thirumangalam, has filed this petition to condone the delay of 781 days in filing the second appeal.

2.In the affidavit, it is specifically averred that the plaintiff filed a suit in O.S.No.60 of 2006 before the District Munsif Court, Thirumangalam, seeking declaration and recovery of possession. The trial Court has dismissed the suit. Challenging the same, he filed an appeal in A.S.No.12 of 2018 before the Sub Court, Thirumangalam. and the same was dismissed on 19.07.2019. He made an application on 22.07.2019 and the printed judgment was ready on 10.09.2020. It is further averred in the petition that the covid-pandemic was commenced from 15.03.2020 and the same was extended up to the year 2022.

3.The learned counsel appearing for the respondents would submit that there is no bona fide in the reasons stated in the affidavit filed by the petitioner to condone the delay. Hence, he prayed for dismissal of this petition.

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



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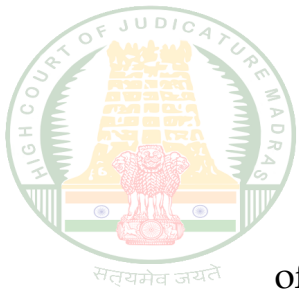
5. In paragraph No.4 of the affidavit, the petitioner specifically averred that his wife was fell ill and thereafter, she died. Therefore, he was unable to approach the Advocate and file Second Appeal within the stipulated time. In view of the specific circumstances pleaded in the paragraph No.4 of the affidavit, this Court is inclined to allow the petition. Even though, the learned counsel for the respondent objected to allow the petition stating that the reasons are not bona fide, the considered opinion of this Court that there was pandemic and also the death of the family member of the wife of the petitioner due to corona was not denied by other side.

6. 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:

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



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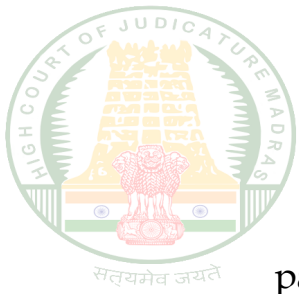
of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal 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 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.



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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 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



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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.

7.Applying the above principle, this Court satisfied with the reasons stated in the affidavit that there was corona pandemic and due to corona, the wife of the petitioner died, thereby, he was unable to approach the Advocate, and therefore, inclined to condone the delay of 781 days in filing the above second appeal in order to render the decision on merits.

8.Accordingly, this petition is allowed on payment of the cost of Rs.10,000/- (Rupees Ten Thousand Only) payable to the learned counsel for the respondents on or before 17.04.2025, failing which, this petition stands dismissed automatically without further reference to this Court.

sd/-
19/03/2025

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/04/2025

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



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ORDER
IN
CMP(MD) No.1967 of 2025
in
SA(MD) SR No.95244 of 2024
Date :19/03/2025

NBF/VR/ SAR/ (02/04/2025) 7P/1C

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