



WEB COPY

CMP No. 7154 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CMP No. 7154 of 2026 in
SA SR NO. 22148 OF 2013**

Kannabiran
S/O.K.Kuppusamy Naidu
No.3,Angalamman koil Street,
Chidambaram.

..Appellant(s)

Vs

1. Chandra
W/o.Sriraman,
Lalpuram Village,
Hamlet of Manalur,
Chidambaram Taluk.

2. DHANALAXMI(Died)

(R2 died,sole appellant and R1 are the legal
heirs of the deceased R2-Recorded vide court
order dated 16/04/2026 made in cmp.no.7154 of
2026 in SA.SR.No.22148 of 2013

..Respondent(s)

PRAYER : Petition filed under Section 5 of the Limitation Act, to condone the
delay of 3230 days in filing the petition to restore SA SR No.22148 of 2013 on
file.

For Appellant(s): Mr.J.Titus Enock

For Respondent(s): Mr.S.Sathish Rajan for R1
R2-died



Order

This Miscellaneous Petition has been filed seeking to condone the delay of 3230 days in filing the petition to restore SA SR No.22148 of 2013 to the file.

2. It is the case of the petitioner that he filed a second appeal challenging the judgment and decree passed by the District Court, Cuddalore in A.S.No.78 of 2012. Though the second appeal was filed in the year 2013, the petitioner was under an impression that the second appeal will be taken up along with the connected second appeal filed by his mother in S.A.No.59 of 2014 which was also filed challenging the very same judgment and decree. It is also stated that the petitioner's mother passed away on 29.05.2022 and he informed his counsel regarding the same. Later, on 14.10.2025, based on a police complaint, the petitioner acquired the knowledge about the dismissal of the second appeal filed by his mother in S.A.No.59 of 2014. Immediately thereafter, the petitioner contacted his counsel and acquired the knowledge that the second appeal filed by him was not even numbered and the same was rejected on 03.02.2017 for failure to comply with the defects pointed out by the Registry. It is further stated that the counsel engaged by the petitioner returned the papers and he engaged the present counsel and filed this petition.

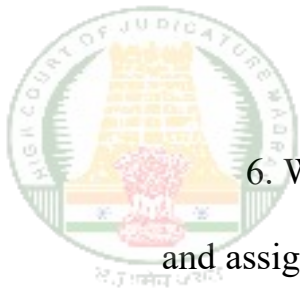
3. It is seen from the affidavit and other connected papers, the judgment and decree in the first appeal was passed on 07.12.2012 and the second appeal



has been filed by the petitioner as early as in 2013. It is also seen that the second appeal filed by the petitioner was returned by the Registry pointing out certain defects and the return has not been taken and ultimately, the second appeal was rejected on 03.02.2017 for failure of the petitioner to take the return and comply with the defect.

4. The petitioner engaged a counsel and said to have preferred a second appeal in the year 2013 and failed to follow it up and verify whether the second appeal has been numbered or not for nearly 12 years. Only after the dismissal of the connected second appeal filed by his mother on 16.09.2025, the petitioner has taken steps to number the Second Appeal. The petitioner has no justifiable explanation for his inaction for nearly 12 years.

5. It is seen from the typed set of papers filed by the respondent, the second appeal filed by the petitioner's mother in S.A.No.59 of 2014 was also dismissed on 16.09.2025 for failure to take steps. From the preamble portion of the said order, it is clear that the petitioner has not even entered appearance in the second appeal filed by his mother. Though the petitioner blamed his earlier counsel for the inordinate delay, the reason given by the petitioner cannot be accepted for the inordinate delay of 12 years. The condone delay petition has not been supported by any affidavit filed by the Advocate or Advocate Clerk to explain the delay.



6. When the Second Appeal filed by the petitioner's mother was numbered and assigned with S.A.No.59 of 2014, the petitioner should have enquired about the number of his own second appeal. The failure of the petitioner to make any attempt to ascertain the number assigned to his case establishes the supine indifference on the part of the petitioner in prosecuting the case. In the light of the discussions made earlier, this Court comes to the conclusion that the petitioner has not established any sufficient cause for condoning the inordinate delay of 3230 days in filing a petition to restore the second appeal.

7. Accordingly, this Civil Miscellaneous Petition is dismissed.

28-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSK



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To
Chandra
W/o.Sriraman,
Lalpuram Village,
Hamlet of Manalur,
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S.SOUNTHAR J.

GSK

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AND
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