



WEB COPY

CMP No. 4868 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CMP No. 4868 of 2026 in
SA.SR.No.59973 of 2024**

M.Sridhar

..Appellant(s)

Vs

Zeenath

..Respondent(s)

Prayer in CMP No. 4868 of 2026: The civil miscellaneous petition is filed under Section 5 of Limitation Act, praying to condone the delay of 774 days in filing the second appeal.

Prayer in SA.Sr.No.59973 of 2024: Second appeal is filed under Section 100 of Code of Civil Procedure, 1908, praying to set aside the decree and Judgment passed in A.S. No. 84 of 2020 dated 03.12.2021 on the file of 1st Additional Subordinate Judge Salem on 03.12.2021 setting aside the judgment and decree passed in O.S.No.397 of 2018 dated 02.07.2020.

For Appellant(s):	Mr.A.Balaji
For Respondent(s):	M/s.S.P.Yuaraj

ORDER

This petition has been filed seeking to condone the delay of 774 days in filing the second appeal.

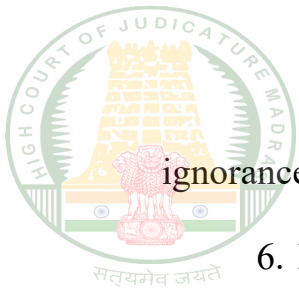


2. The learned counsel for the petitioner, by taking this Court to the additional affidavit dated 16.06.2026, submitted that due to passing away of lower court counsel, the petitioner could not file the second appeal in time. Hence, there was a delay of 774 days.

3. The learned counsel for the respondent by relying on the averments in the counter affidavit submitted that though petitioner presented the second appeal on 18.07.2024, they have taken nearly 2 years for numbering the condone delay petition. Therefore, the reasons assigned in the affidavit are not acceptable.

4. It is seen from the typed set of papers that first appeal was disposed of on 03.12.2021 and copy application was made on 15.05.2023 and the copies were made ready on 17.08.2023. The second appeal papers were presented before this Court on 18.07.2024.

5. In the additional affidavit filed by the petitioner on 10.03.2026, the petitioner attempted to explain the delay by saying there was settlement talks between the parties and hence, the second appeal could not be presented in time. Today, another affidavit was filed by the petitioner stating that the counsel, who conducted the case before the courts below passed away and hence, disposal of the appeal was not known to the petitioner. After acquiring knowledge about the disposal of the first appeal, he collected the papers, engaged a new counsel and filed copy application. Therefore, according to the petitioner, the delay in filing copy application had occurred only due to death of the counsel and his



ignorance about the disposal of the appeal.

6. It is seen that copies were made ready on 17.08.2023 and the second appeal was presented during July 2024. It is stated in the affidavit filed on 10.03.2026, there was settlement talks between the parties after delivery of the copies and hence, there was delay in filing second appeal.

7. Taking into consideration the averments found in the additional affidavit dated 09.03.2026 and 16.06.2026 and also length of delay, this Court is inclined to take a liberal view of the matter and condone the delay of 774 days on condition that the petitioner pays a sum of **Rs.1000/-(rupees thousand only)** as cost to the respondent's counsel within a period of two weeks from today. Failing which, the civil miscellaneous petition shall stand **automatically dismissed**. In case of compliance of the condition, registry is directed to number the second appeal, if it is otherwise in order and list the same for admission.

17-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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