



WEB COPY

CMP No. 27438 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

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THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CMP No. 27438 of 2025
in O.S.A.SR.No.57270 of 2025**

Mrs.Shobana

W/o.Late S.Suresh, No. T-121 Avvai Street,
Thiru Nagar, Jafferkhanpet, Chennai 600 083.

..Appellant(s)

Vs

1. V.Jayakumar

S/o.G.Venkataraman No.20 Malligai Street,
Ambala Nagar, Porur Chennai 600 116.

2. Mrs.Kalavathy

W/o Mr. Natarajan, Door No.12, Dharmaraja
Koil Lane, Saidapet, Chennai - 15.

3. Mrs.Vijaya

W/o.Mr.Sekar, Door No.22/120, Ramaswamy
Street, Mannady, Chennai 600 001.

4. Mr.B.Kabaleeswaran

S/o.Late Mr.C.Balaraman residing at No.3 B



3rd Floor High Gate Apartment East Avenue
road, Korattur Chennai 600 080

And now temporarily res at No.7, B-1, Isha
Gitika Apartment, 1st Cross Street, Srinivasa
Nagar, Velachery, Chennai 600 042

5. Mr.B.Sivakumar

Door No.56/4 5th Cross Street, Trustpuram,
Kodambakkam, Chennai 600 024.

6. Mr.B.Srinivasan

Door No.56/4 5th Cross Street, Trustpuram,
Kodambakkam, Chennai 600 024.

7. Mr.B.Sankar

New No.3 Old No.2 1st Cross Street, New Tech
prema Castle Trustpuram, Kodambakkam,
Chennai 600 024.

8. Mrs.Latha

W/o.Mr.Rathinavel Door NO.9B Jain Garden
2nd Street, Valasarawakkam, Chennai 600 087.

..Respondent(s)

Prayer: Judge's Summons filed under Order XIV Rule 8 of O.S.Rules read with Order V Rule V of O.S.Rules and Section 5 of Limitation Act, to condone the delay of 498 days in filing the OSA by the appellant.



For Appellant(s): Mr.S.Thirumavalavan

For Respondent(s): M/s.K.M. Vijaya Associates(For R1)
Mr.K.Sridhar (For R2 & R3)
M/s.Sadhana (For R5)
M/s.R.V.Gayatri
For Mr.P.B.Ramanujam (For R7)

ORDER

(Order of the Court was made by C.V.Karthikeyan J.)

This Civil Miscellaneous Petition has been filed by the 6th defendant in the suit, seeking to condone the delay of 498 days in filing the appeal.

2. The suit in C.S.No.504 of 2018 had been filed seeking Partition and Separate Possession of the suit schedule properties, wherein it had been claimed that the first defendant in the suit had sold his undivided 1/8th share in the “A” Schedule property to the late husband of the petitioner herein, S.Suresh and after his death, the petitioner had stepped into his shoes as his legal heir. The issue was with respect to claiming the rental arrears payable to the first defendant by the lessee in the property.

3. The suit had proceeded further and a preliminary decree had been passed, which has not been challenged. The final decree had also been passed



and the same has also not been challenged. Now, an application has been filed with respect to the division of an advance amount, claiming that the petitioner herein is entitled for a sum of Rs.1,50,000/- which was a share of the first defendant from the advance amount and the same was directed to be collected, since a charge had been created over the property, as stated by the learned Single Judge in the final decree. It is only thereafter that the present appeal has been filed, with a delay of 498 days.

4. Even if the appeal is entertained, the cause raised by the appellant herein cannot be entertained in the suit for partition. The cause is distinct and the appellant can proceed with the charge which has been created and directed to be created by the learned Single Judge, while passing the final decree.

5. So far as the reasons for the delay are concerned, extremely vague reasons have been given, stating that the counsel had applied for the certified copy and that the appeal had been filed based on the web copy. The delay of 498 days has not been properly explained. A counter has also been filed and during the course of arguments, the learned counsel travelled into the merits of the appeal, which unfortunately cannot be examined at this stage, as this is only an application to condone the delay.



6. We are not inclined to condone the delay. However, we would again clarify that, as pointed out by the learned Single Judge while passing the final decree, a charge has been created over the property and it is for the parties to proceed on the basis of the said charge created over the property and work out their remedies independently. Since no sufficient reason had been given to condone the delay, this petition in C.M.P.No.27438 of 2025 stands dismissed and OSA.SR.No.57270 of 2025 is rejected at the SR stage itself. No costs.

(C.V.K.,J.) (K.B.,J.)
23-01-2026

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To

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