WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

CMP No. 15826 of 2026
and
SA NO. 588 of 1998

Hamja Maraicar

..Petitioner (s)

Vs

A Shaivka Naina Maraicar (deceased)
1. S.N.Abbas Maricar
2. S.O.Noor Mohamed

..Respondent(s)

Prayer: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 5295 days in filing the restoration petition.

For Petitioner(s): Mr.Anish Gopi for
M/s P.B.Ramanujam Associates

For Respondent(s): No Appearance

ORDER

This petition has been filed by the petitioner to condone the delay of 5295 days in filing the restoration petition.

2. According to the petitioner, he is the appellant in the Second Appeal and he preferred the Second Appeal as against the decree and judgment passed by the First Appellate Court in A.S. No.86 of 1994. The petitioner is the

https://www.mhc.tn.gov.in/judis

WEB COPY

plaintiff, who filed the suit in O.S.No.73 of 1986 before the Trial Court for the relief of permanent injunction. The said suit was dismissed on 29.04.1993. Aggrieved by the same, the Appeal in A.S. No.86 of 1994 was preferred and the said appeal was also dismissed on 15.07.1997. As against the said decree and judgment, the petitioner has preferred the second appeal and the same was dismissed for default on 04.11.2011.

2.1. The respondents have commenced unauthorized construction with the petitioner's property by collecting monies from the general public, already petitioner filed the writ petition in W.P No.5241 due to advanced age of the petitioner and pressing personal circumstances, he been continuously travelling to various places for urgent family and personal matters and thereby unable to contact previous counsel, who conducted the second appeal. Now only the petitioner contacted his counsel and he came to know the dismissal of second appeal for default for non-appearance of the counsel on the relevant date. Thereafter, filed this petition through another counsel. Therefore, there is a delay of 5295 days and the same is to be condoned.

3. The other side have not appeared, despite service of notice to them. Though the names of the respondents have also been printed in the cause-list, however none appeared.

https://www.mhc.tn.gov.in/judis

WEB COPY

4. This Court heard the learned counsel appearing for the petitioner and perused the materials placed on record.

5. The petitioner has filed this petition to condone the delay of 5295 days in filing the restoration petition of the main Second Appeal, which was dismissed for default on 04.11.2011. According to the petitioner, due to old age and due to continuous travel in connection with urgent family and personal matters, unable to contact the counsel and thereafter, he recently came to know about the dismissal of the second appeal and filed this petition with change of Vakalath by engaging some other counsel.

6. On perusal of the records, it is seen that the main appeal was dismissed for default on 04.11.2011 and thereafter, this petition has been filed on 02.06.2026 with the huge delay of 5295 days. It is well settled law that the petitioner has to prove the reasonable cause for his non-appearance and the huge delay has not been properly explained by the petitioner.

7. The above said reasons stated by the petitioner for the delay is not acceptable, since, the petitioner failed to offer proper explanation for the huge delay, it is not appropriate to allow this petition without any proper reasons and this petition has no merits.

Accordingly, this Petition is dismissed.

27-10-2026

Index: Yes/No; Speaking/Non-speaking order
Neutral Citation: Yes/No
ssd/AJ

https://www.mhc.tn.gov.in/judis

WEB COPY

P.DHANABAL J.

ssd/AJ

CMP No. 15826 of 2026
and
SA NO. 588 OF 1998

27-10-2026

https://www.mhc.tn.gov.in/judis