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C.M.P.No.28829 of 2025
in S.A.SR.No.111907 of 2025

.IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.P.No.28829 of 2025
in S.A.SR.No.111907 of 2025

G.Lakshmanan

... Petitioner/Appellant

vs.

1.Jayapal

2.V.Asokan

... Respondent

PRAYER in C.M.P.No.28829 of 2025: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to condone the delay of 1108 days in filing Second Appeal against the judgment and decree passed in A.S.No.16 of 2017, dated 09.04.2021 on the file of the II Additional District Judge, Vellore at Ranipet confirming the judgment and decree in O.S.No.309 of 2010, dated 09.11.2016 on the file of the Subordinate Judge, Ranipet.

PRAYER in S.A.SR.No.111907 of 2025: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to allow the second appeal thereby dismissing A.S.No.16 of 2017 dated 09.04.2021 on the file of the II Additional District Judge, Vellore @ Ranipet confirming the judgment and decree in O.S.No.309 of 2020, dated 09.11.2016 on the file of the Subordinate Judge, Ranipet.



C.M.P.No.28829 of 2025
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For Petitioner/Appellant : Mr.K.Mohana Murali

For Respondent :M/s.B.Sundarapandiyan for R1

ORDER

This petition has been filed seeking to condone the delay of 1108 days in filing the second appeal.

2. It is seen from the records that the first appeal was disposed on 09.04.2021. The petitioner/appellant filed copy application only on 18.03.2025 and the same were made ready on 28.03.2025. The Civil Miscellaneous Petition was filed on 17.07.2025.

3. In the affidavit filed in support of condone delay petition, it was stated by the petitioner that though the first appeal judgment was delivered on 09.04.2021, he could not file second appeal in time as his wife was diagnosed with breast Cancer and she was taking treatment in Government Anna Cancer Hospital, Kancheepuram. It is further stated that son of the



C.M.P.No.28829 of 2025
in S.A.SR.No.111907 of 2025

petitioner was affected by mental disorder and he has been in treatment in CMC Mental Health Care Centre, Vellore. The petitioner also submits that he has been affected with Kidney failure and also taking treatment. In view of the illness of petitioner, his wife and his son, it is stated that he could not file the second appeal in time.

4. The first respondent filed counter affidavit denying the averment in the affidavit filed in support of the condone delay petition. According to the first respondent, he filed execution petition in E.P.No.107 of 2021 and in the said petition, the petitioner entered appearance and filed counter on 08.11.2022, after full-fledged enquiry in execution petition, sale deed was executed by Court in favour of the first respondent on 10.10.2023 and E.P.No.107 of 2021 has been closed.

5. It is also stated that the petitioner filed another execution petition for taking possession of the property pursuant to the execution of the sale deed. The copy of the counter filed by the petitioner in E.P.No.107 of 2021 is filed in the typed set of papers filed by the respondent. Therefore, it is clear, the petitioner herein filed counter in the execution petition on 08.11.2022. When the petitioner is able to enter appearance in the execution



C.M.P.No.28829 of 2025
in S.A.SR.No.111907 of 2025

proceedings and contest the same by filing counter, the reason given by the petitioner that he was ill and hence prevented from filing the second appeal within time cannot be accepted. The reason given by the petitioner is not sufficient to condone the inordinate delay of 1108 days in filing the second appeal. Hence, the Civil Miscellaneous Petition is dismissed.

6. Accordingly, C.M.P.No.28829 of 2025 is dismissed. Consequently, the second appeal in S.A.SR.No.111907 of 2025 is rejected in SR stage itself.

27.03.2026

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To

- 1.The II Additional District Judge,
Vellore at Ranipet.

2. The Subordinate Judge, Ranipet.



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C.M.P.No.28829 of 2025
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S.SOUNTHAR, J.

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