



**A.No.336 of 2026
in
O.P No.65 of 2025**

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**MASTER
27.02.2026**

ORDER

1. This application is filed by the applicant to condone the delay of 49 days in filing the supporting affidavit in caveat.

2. Heard the counsel for the applicant. No counter has been filed by the respondent. On perusal of the records, it is seen from the endorsement made by the Registry that the caveat petition was filed on 09.10.2025 and the supporting affidavit was filed on 05.12.2025.

3. As per Order XXV, Rule 52 of the Madras High Court Original Side Rules, where a caveat has been entered after an application has been made for grant of probate or letters of administration, the affidavit in support of the caveat shall be filed within 8 days of the caveat being filed. In this regard this court obliges to refer the decision in **C.T.Ramasamy –Vs-- S.P.Kaveri Aachi, 2002 (4) Law Weekly 681 Madras (DB)** wherein it is held that “*As necessary affidavit was not filed in time, the application to condone the delay of 229 days was filed and allowed and against the said Order O.S appeal was filed. Contention urged for applicant that only the procedure prescribed in Original Side Rules is applicable and hence caveat filed under 148 (a) of C.P.C cannot be considered in the eye of law there is no caveat at all. Further, contention raised that without the caveat expired no affidavit can be filed in support of the non- existing caveat held, as Rule 56 gives liberty to caveator to renew the caveat it is open to court to render full justice when parties came for redressal. In the interest of justice, respondent can be permitted to file fresh caveat and file the affidavit within a week thereafter. Filing of affidavit in support of caveat*



is contemplated only when the caveat is in force and after lapse of 6 months, it is of no effect and affidavit for condonation defect cannot be entertained.”

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4. The applicant has not spelt out any proper explanation for the delay except mere averment stating that he had filed caveat petition along with a memo and was under the impression that it will be numbered but the caveat petition was returned by the Registry stating only supporting affidavit will be taken on file. The affidavit was filed after a lapse of 49 days and that too without any proper explanation for the delay in filing the affidavit. In view of Order 25, Rule 52 and also taking note of the fact that no reason for delay has been mentioned in the affidavit filed in support of this application, this court is not inclined to condone the delay of 49 days in filing the affidavit and is inclined to dismiss this application.

In fine, this application is dismissed. No cost.

MASTER