



CMP NO.8496 OF 2026
IN
S.A.NO.1822 OF 2003

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2026

CORAM

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

CMP NO.8496 OF 2026
IN
S.A.NO.1822 OF 2003

Veerapathiran
Valluvar Street,
Kuttalam Post & Taluk,
Kuttalam, Mayiladuthurai District.

... Petitioner /
Appellant

Versus

1.Kothandapani Pillai (Died)
2.Thangapappu (Wife)
3.Venkraman
4.Subramanian
5.Anandavalli
6.Manimegalai
7.Gandhimathi

... Sole Respondent

... Respondents /
Proposed Respondent 2-7

All are residing at
No.38, Madhirmangalam Kizhavelli,
Kuttalam Post and Taluk,
Mayiladuthurai District.

PRAYER: Civil Miscellaneous Petition filed under Section 5 of Limitation Act, 1963, praying to condone the delay of 1652 days in filing the restoration petition which was dismissed for default for non-prosecution dated February 2, 2018 in S.A.No.1822 of 2003.



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For Petitioner : Mr.M.Raja
for Mr.S.Kannan

For Respondent-3 : Mr.B.Jawahar

ORDER

Mr.M.Raja, representing Mr.S.Kannan, Counsel on record for the petitioner is before this Court. Mr.B.Jawahar, Counsel takes notice for the third respondent.

2.The petitioner herein is the appellant in S.A.No.1822 of 2003. The Second Appeal was dismissed for default on February 2, 2018. Thereafter, the petitioner filed CMP No.17399 of 2018 to restore the Second Appeal, along with CMP No.17397 of 2018 seeking condonation of a delay of 194 days. Despite sufficient opportunities being granted, the petitioner failed to appear. Hence, both petitions were directed to be listed on December 13, 2019 under the caption “for dismissal.” Even on that day, i.e., December 13, 2019, the petitioner did not appear and therefore, both petitions were dismissed for non-prosecution.



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3. Thereafter, the petitioner filed CMP No.3761 of 2022 seeking condonation of a delay of 32 days in filing a petition to restore CMP No.17397 of 2018 and CMP No.17399 of 2018. Since the sole respondent had passed away long prior thereto and no steps were taken by the petitioner/appellant to bring on record the legal heir(s)/legal representative(s) of the deceased sole respondent, CMP No.3761 of 2022 was dismissed as abated on April 3, 2023.

4. Now, the petitioner has come up with the present petition in CMP No.8496 of 2026 seeking condonation of a delay of 1652 days in filing a petition to restore S.A.No.1822 of 2003, which was dismissed for non-prosecution on February 2, 2018.

5. This Court put a specific query to the representing Counsel for the petitioner as to how the present petition is maintainable.



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7.Per contra, Mr.B.Jawahar, Counsel appearing for the third respondent submits that the present Civil Miscellaneous Petition is not maintainable. He further contends that the petitioner has filed this petition as an abuse of the process of law and accordingly, prays to dismiss the petition.

8.This Court has considered both side submissions.

9.The Second Appeal was dismissed for non-prosecution on February 2, 2018. Thereafter, the petitioner filed petitions to restore the Second Appeal along with a petition to condone the delay. Both the delay condonation petition as well as the restoration petitions were dismissed.



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Subsequently, the petitioner filed another petition to restore the same with a delay of 32 days, which also came to be dismissed as abated. Thereafter, the present petition has been filed.

10. In view of the facts and circumstances, this Court is of the considered view that the present petition is a clear abuse of the process of law. Considering the cumulative facts and circumstances of the case, this Court is not inclined to allow this Civil Miscellaneous Petition. Accordingly, this Civil Miscellaneous Petition is dismissed.

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R. SAKTHIVEL, J.

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