



WEB COPY



CMP(MD)No.1.
in SA(MD)SR.No.15937 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-03-2026

CORAM

THE HONOURABLE MR JUSTICE P.B.BALAJI

CMP(MD) No.14240 of 2025

in

SA(MD) SR.No.15937 of 2024

G.Santhi

**Petitioner/
Appellant**

Vs

1.Thilagavathi
S.Gurusamy @ Sundaraj (Died)
2.R.Parvathi
3.G.Ayyanar

**Respondents/
Respondents**

This Civil Miscellaneous Petition filed under Section 5 of Limitation Act praying to condone the delay of 87 days for filing second appeal against the decree and judgment dated 26.07.2023 passed in A.S.No.42 of 2018 on the file of Additional Sub Court, Srivilliputhur, confirming the decree and judgment dated 05.07.2018 in O.S.No. 89 of 2013 on the file of the Additional District Munsif Court, Srivilliputhur.

For Petitioner: Mr.Y.Prakash, Advocate

For Respondents: Mr.K.Gurunathan, Advocate for R1

R2 – Refused

No appearance for R3



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ORDER

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The above petition has been filed seeking orders to condone the delay of 87 days in filing the second appeal, challenging the judgment and decree passed in A.S.No.42 of 2018 dated 26.07.2023 on the file of the Additional Subordinate Court, Srivilliputhur, confirming the judgment and decree made in O.S.No.89 of 2013 dated 05.07.2018 on the file of the Additional District Munsif Court, Srivilliputhur.

2. No representation for the second respondent.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

4. The reason canvassed in the delay condonation petition is that the appellate Court passed the judgment and decree on 26.06.2023 and copy application was filed on 20.09.2023 and copies of the judgment and decree was delivered on 20.11.2023, however, due to the petitioner's financial crisis, she was not in a position to contact her counsel immediately and she was also not aware to file an appeal and that after mobilization of funds, the petitioner met her counsel on 19.02.2024 and handed over the papers and therefore, there occurred a delay of 87 days in filing the second appeal.



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5. The learned counsel appearing for the first respondent states that the petitioner having lost before the trial Court as well as before the first appellate Court ought to have been diligent in following upon the matter and that the delay has not been explained satisfactorily.

6. Considering the arguments advanced on either side and also the fact that the delay, which is not inordinate, is satisfactorily explained by the petitioner, I am of the considered view that the petitioner should be given an opportunity to contest the concurrent findings against her in the second appeal, on merits, but at the same time, prejudice caused to the first respondent has to be necessarily compensated, which can be done by way of costs.

7. In the light of the above, this petition is allowed on payment of cost of **Rs.3,000/- (Rupees Three Thousand only)** by the petitioner to the learned counsel appearing for the first respondent within a period of one week from today.

8. Post the matter on 11.03.2026 'for reporting compliance'.

04-03-2026

CSM

Note : Issue order copy today (04.03.2026)

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