



C.M.P.(MD)No.10457 of 2025
in Cros. Obj(MD)SR.No.46352 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.01.2026

Pronounced on : 28.01.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.10457 of 2025
in Cros.Obj(MD)SR.No.46352 of 2025
in S.A.(MD)No.34 of 2019
and
Cros.Obj(MD)SR.No.46352 of 2025
in S.A.(MD)No.34 of 2019

1.Ganapathy (Died)

2.Sankaran

3.S.Sundararajan

*(Cross Objectors 2 & 3 are brothers of deceased
1st Cross Objector)*

4.Janaki (Died)

5.Bakeerathi

6.P.Kumar

7.R.Baskaran

8.R.Buvaneswaran

*(Respondents 6 to 8 are legal heirs of deceased
4th Cross Objector)*

... Petitioners/
Cross Objectors

Vs.



*C.M.P.(MD)No.10457 of 2025
in Cros. Obj(MD)SR.No.46352 of 2025*

Suresh

...Respondent/
Respondent

Prayer in C.M.P.(MD)No.10457 of 2025 : The Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 2231 days in filing the above Cross Objection in S.A.(MD)No.34 of 2019 on the file of this Court.

Prayer in Cros.Obj(MD)No.SR46352 of 2025 : The Cross Objection filed under Order 41 Rule 22 C.P.C., against the judgment and decree dated 27.04.2018 made in A.S.No.26 of 2013 on the file of Principal District Judge, Pudukkottai, reversing the judgment and decree dated 25.06.2013 made in O.S.No.141 of 2008 with counter claim on the file of Sub Court, Pudukkottai, in so far as they relate to the dismissal of the appeal suit as to the counter claim that was rejected by the trial Court and the first appellate Court is concerned.

Prayer in S.A.(MD)No.34 of 2019 : The Second Appeal filed under Section 100 C.P.C., against the judgment and decree dated 27.04.2018 made in A.S.No.26 of 2013 on the file of Principal District Court, Pudukkottai, reversing the judgment and decree dated 25.06.2013 made in O.S.No.141 of 2008 on the file of Sub Court, Pudukkottai.

(in both cases)

For Petitioners : Mr.S.Srinivasa Raghavan

For Respondent : Mr.M.Mohamed Ibram Saibu
for M/s.Ajmal Associates



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*C.M.P.(MD)No.10457 of 2025
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COMMON ORDER

The Civil Miscellaneous Petition has been filed invoking Section 5 of Limitation Act seeking orders to condone the delay of 2231 days in filing the cross objection in S.A.(MD)No.34 of 2019 on the file of this Court.

2. The respondent as plaintiff filed a suit claiming the relief of specific performance of the sale agreement dated 20.12.2006 alleged to have been entered into between himself and the deceased Vasantha, owner of the suit property. Since the said Vasantha died without Class-I legal heirs, the respondent filed a suit against the petitioners / defendants, who are the brothers and sisters of the deceased Vasantha. The petitioners have filed a counter claim alleging that the said Vasantha executed a Will in favour of the second petitioner and that the respondent is in possession of the portion of the suit property as a lessee and claimed the relief of eviction of the respondent from the portion of the property, arrears of rent and for permanent injunction restraining the respondent from trespassing into the remaining portion of the suit property. After full trial, the learned



*C.M.P.(MD)No.10457 of 2025
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Subordinate Judge, Pudukkottai passed the judgment and decree dated 25.06.2013 granting the relief of specific performance and dismissing the counter claim. Aggrieved by the said judgment and decree, the petitioners preferred an appeal in A.S.No.26 of 2013 and the learned Principal District Judge, Pudukkottai passed the judgment and decree dated 27.04.2018 partly allowing the appeal and thereby setting aside the decree for specific performance and confirming the dismissal of the counter claim. Challenging the judgment and decree of the first appellate Court in setting aside the decree for specific performance, the respondent has filed the second appeal in S.A.(MD)No.34 of 2019. Pending second appeal, the petitioners have filed the above cross objection with the above civil miscellaneous petition to condone the delay of 2231 days in filing the cross objection.

3. The reason canvassed in the delay condonation petition is that the petitioners had engaged a counsel long back to enter appearance on their behalf. However, owing to a communication gap and lack of proper instructions, they subsequently engaged the present counsel on record. The present counsel entered appearance only on 23.02.2025 and thereafter



*C.M.P.(MD)No.10457 of 2025
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informed the petitioners that, since the Court of first appeal had rejected the counter claim while disposing of the first appeal, they ought to have filed a cross-objection. It is further stated that the petitioners' earlier counsel, who had filed vakalat in the second appeal, did not advise them to file such cross-objection and that, being lay persons with no knowledge of technical legal requirements, the petitioners were not in a position to do so at the relevant time. It is therefore contended that the delay is neither wilful nor wanton and that no prejudice would be caused to the respondent if the delay is condoned.

4. The respondent filed a counter affidavit disputing the affidavit averments and further stated that the reasons shown in the affidavit are all false, frivolous and vexatious and lacking with the material particulars, that the petitioners have failed to show sufficient cause for the long and unexplained delay, that the rights that have accrued to the respondent due to the petitioners' negligence should not be disturbed without compelling reasons, that the petitioners' contention that their previous counsel has not advised them to file the cross objection and since they are lay persons and having no knowledge of technical details, they were not in a position to



C.M.P.(MD)No.10457 of 2025
in Cros. Obj(MD)SR.No.46352 of 2025

file the cross objection is not only false but misleading, that the petitioners have pleaded that a Will was executed by the deceased Vasantha in favour of the second petitioner but they have failed to prove the Will as required by law, that in the second appeal, the respondent filed a petition to implead the legal representatives of the deceased fourth petitioner and were impleaded on 20.03.2024 and even during that time, the petitioners have not chosen to file the cross objection, that the delay occurred is intentional and deliberate, that the petitioners have acted negligently throughout the proceedings and they should not be rewarded for their own laxity and that therefore, the present petition is liable to be dismissed.

5. The learned counsel appearing for the petitioners would rely on a decision of the Hon'ble Supreme Court in ***Rafiq and another Vs. Munshilal and another*** reported in ***(1981) 2 SCC 788***, wherein, the Hon'ble Apex Court has held that an innocent party cannot be allowed to suffer for the inaction, deliberate omission or misdemeanour of their advocate on record. Since the appellants' appeal before the High Court was dismissed for the absence of their advocate, they moved an application to recall the order dismissing their appeal, but the same was



C.M.P.(MD)No.10457 of 2025
in Cros. Obj(MD)SR.No.46352 of 2025

rejected by the High Court and when the same was challenged, the Hon'ble Apex Court, while allowing the appeal, imposed cost on the advocate, who was responsible for the dismissal of the appeal before the High Court.

6. To counter this, the learned counsel appearing for the respondent would rely on a decision of the Hon'ble Supreme Court in ***Nitin Mahadeo Jawale and others Vs. Bhaskar Mahadeo Mutke*** reported in ***2024 SCC OnLine SC 3468***, wherein, the Hon'ble Apex Court has come down heavily on the litigants throwing the entire blame on the advocates and the relevant passages are extracted hereunder;

“6. We have noticed over a period of time the growing tendency on the part of the litigants in throwing the entire blame on the head of the advocate. Not only this, we have come across cases where the concerned advocate has filed an affidavit in favour of his client(s) saying that he was unable to attend the proceedings due to some personal reasons difficulties thereby facilitating the litigant to get the delay condoned.

7. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay



C.M.P.(MD)No.10457 of 2025
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as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance.”

7. In the case on hand, the sole reason canvassed is that the petitioners' previous counsel on record in the second appeal failed to advise them to file a cross-objection challenging that part of the judgment of the first appellate Court which confirmed the dismissal of their counter claim by the trial Court.

8. As rightly pointed out by the learned counsel appearing for the respondent, the petitioners have laid a counter claim seeking eviction of the respondent in portion of the suit property and also for permanent injunction restraining the respondent from trespassing into their remaining portion of the suit property and also claimed rent arrears. Since the counter claim was rejected and the respondent's suit for specific performance was decreed, the petitioners have preferred the appeal and that though the first appellate Court has set aside the decree for specific performance, confirmed the dismissal of the counter claim. As rightly contended by the



*C.M.P.(MD)No.10457 of 2025
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learned counsel appearing for the respondent, the petitioners' present contention that they are lay persons and lack knowledge of technical legal requirements, cannot legally be countenanced.

9. The principle that “ignorance of law is no excuse” (ignorantia juris non excusat) is squarely applicable to the case on hand. It is pertinent to note that the presumption of knowledge of law constitutes a fundamental pillar of the functioning of any legal system, and a plea of unawareness of the legal position cannot be entertained. The limitation prescribed for filing a cross-objection under the Code of Civil Procedure is 30 days from the date of service of notice of the appeal. No doubt, the appellate Court is empowered to condone the delay, provided sufficient cause is shown. In other words, the appellate Court may allow further time beyond the prescribed period if the cross-objector establishes reasonable or sufficient cause for the delay. However, condonation of delay in filing a cross-objection is not automatic and can be granted only upon the showing of good and acceptable reasons. In the present case, as already pointed out, except for attributing the delay to the alleged failure of the earlier counsel, the petitioners have not put forth any valid reason or sufficient explanation



*C.M.P.(MD)No.10457 of 2025
in Cros. Obj(MD)SR.No.46352 of 2025*

for the inordinate delay of 2231 days. Moreover, as rightly contended by the learned counsel appearing for the respondent, the conduct of the petitioners clearly reflects gross negligence and lack of due diligence.

10. Considering the above, this Court has no hesitation in holding that the petitioners have not shown any sufficient cause for the inordinate delay of 2231 days in filing the cross objection to the second appeal and as such, this Court concludes that the petition is devoid of merit and is liable to be dismissed.

11. In the result, this Civil Miscellaneous Petition is dismissed. Consequently, Cros.Obj(MD)SR.No.46352 of 2025 is rejected at SR stage itself.

28.01.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



*C.M.P.(MD)No.10457 of 2025
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To

- 1.The Principal District Judge,
Pudukkottai.
- 2.The Subordinate Judge,
Pudukkottai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
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in Cros.Obj(MD)SR.No.46352 of 2025
and
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Dated : 28.01.2026