



CMP(MD) No.8658 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CMP(MD) No.8658 of 2023
in
CRP(MD). SR.No.39557 of 2023**

Daniel Mani

... Petitioner

Vs

1.Abraham (died)

2.Maria Ammal

3.Sunemial

4.Issac Arul

5.Lydia

(R2 to R5 are brought on record
vide court order dated 05.07.2024)

... Respondents

PRAYER in CMP(MD) No.8658 of 2023 :-Petition filed under Section 5 of the Limitation Act, to condone the delay of 1614 days in filing the above Civil Revision Petition.

PRAYER in CRP(MD) SR.No.39557 of 2023 :-Petition filed under Section 115 of CPC, to call for the records pertaining to the order dated 05.10.2016 passed in I.A.No.52 of 2015 in Probate O.P.No.2 of 2000 on the file of the learned Principal Sub Court, Nagercoil and set aside the same.



CMP(MD) No.8658 of 2023

For Petitioner : Mr.S.Rajasekar for
M/S.Lajapathi Roy and Associates

For R2 to R5 : Mr.V.Balaji

For R1 : Died

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 1614 days in filing the above Civil Revision Petition.

2.The Civil Revision Petition has been filed challenging the order passed by the learned Principal Subordinate Judge, Nagercoil, in I.A.No.52 of 2015 in Probate O.P.No.2 of 2000 dated 05.10.2016.

3.The petitioner has preferred Prob.O.P.No.2 of 2000 before the Principal Subordinate Court, Nagercoil, seeking to probate the 'B' schedule property in the last Will along with other reliefs. In the said Prob.O.P., an *ex parte* order came to be passed on 10.10.2013. Thereafter, the petitioner has filed an application in I.A.No.52 of 2015 before the Principal Subordinate Court, Nagercoil, praying to condone the delay of 463 days in filing a petition to set aside the *ex parte* order dated 10.10.2013. The said application was dismissed on 05.10.2016.



CMP(MD) No.8658 of 2023

Challenging the same, the petitioner is before this Court along with the present petition.

4.The learned counsel for the petitioner would submit that the records of the present Civil Revision Petition have been misplaced by the earlier counsel of the petitioner and the same was not presented in time, by complying with the return made by this Court vide order dated 10.04.2017 by the earlier counsel also. Subsequently, the papers were traced. He would further submit that due to the non availability of the papers, the petitioner was unable to file the present Civil Revision Petition within the stipulated time, resulting in a delay of 1614 days. Hence, the present petition is filed to condone the said delay in the interest of justice.

5.I have given my careful and anxious consideration to the contentions put forward by the learned counsel for the petitioner and also perused the entire materials available on record.

6.The matter comes up for consideration of application under Section 5 of the Limitation Act with a prayer for condoning the delay of 1614 days in filing the Civil Revision Petition.



CMP(MD) No.8658 of 2023

WEB COPY

7. Admittedly, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay if the petitioner is able to demonstrate "sufficient cause" for not preferring the Revision within the prescribed limitation period. The explanation offered must be reasonable, bona fide, and not indicative of negligence or inaction.

8. As per the averments made in the application, the only ground taken by the petitioner for condoning the delay is that the bundle has been misplaced and the learned counsel has not followed the case properly. After perusal of the reasons attributed by the learned counsel for the petitioner in the affidavit filed in support of the present petition, this Court is of the view that the reasons assigned by the petitioner are found to be vague, lacking in particulars and not supported by any acceptable material. It is well settled that mere filing of a petition for condonation of delay does not entitle the petitioner to automatic relief, especially when the delay is enormous. The absence of a convincing explanation dis-entitles the petitioner from invoking the discretionary relief of the Court.



CMP(MD) No.8658 of 2023

WEB COPY

9. In view thereof, this Civil Miscellaneous Petition stands dismissed and the Civil Revision Petition stands rejected at the SR stage itself.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
mm

29.01.2026

To

The Subordinate Judge, Nagercoil.



WEB COPY



CMP(MD) No.8658 of 2023

N.SENTHILKUMAR, J.

mm

**CMP(MD) No.8658 of 2023
in
CRP(MD). SR.No.39557 of 2023**

29.01.2026