



CMP(MD). No.13600 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02/04/2026

CORAM

THE HONOURABLE MR. JUSTICE P.B. BALAJI

CMP(MD). No.13600 of 2025 in
SA(MD).SR.No.65375 of 2025

M.Senthurpandi

... Petitioner

Vs

K.P.Raja Stalin

.. Respondent

PRAYER :- To condone the delay of 1151 days in filing second appeal against the judgment and decree made in A.S.No.113 of 2016 dated 29-09-2021 on the file of Sub Court, Thoothukudi confirming the judgment and decree made in O.S.No.477 of 2010 dated 20-07-2016 on the file of Principal District Munsif Court, Thoothukudi and thus render justice.

For Petitioner : Mr. S. Kumar,
Advocate.

For Respondent : Mr.S.Muthu Malai Raja,

ORDER

This petition has been filed to condone the delay of 1151 days in filing the above Second Appeal.

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2. Heard the learned counsel appearing for the petitioner and the respondent.

3. The learned counsel appearing for the petitioner states that the petitioner was running a petty shop and, according to him, was suffering from high blood sugar and facing financial difficulties, and therefore could not mobilise funds for filing the Second Appeal. The only reason stated is that subsequently his daughter informed him that his son-in-law was willing to extend financial assistance for filing the Second Appeal. The delay is sought to be condoned on this sole ground alone.

4. The learned counsel appearing for the respondent states that the issue is one of bare junction, which does not involve any substantial court fee. The affidavit is bereft of material particulars as to when the judgment copies were applied for and furnished by the Registry, and there is no satisfactory explanation for the inordinate and lengthy delay of 1151 days. In support of his contention, he relies on the judgment of the Hon'ble Supreme Court reported in **2023 SCC Online SC 92** in **Ajay Dabra v. Pyare Ram and others**, wherein, on similar facts, the Hon'ble



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Supreme Court held that incapacity to pay court fee is not a ground for condonation of delay under Section 5 of the Limitation Act. In fact, the suit for specific performance involved payment of a larger court fee. In the present case, admittedly the court fee is only Rs. 30/- for filing the Second Appeal. There is absolutely no justifiable reason to contend that the petitioner/appellant was unable to muster the court fee for preferring the Second Appeal, that too for a period of more than 1151 days. Hence, this petition is dismissed. Consequently, SA(MD) SR No. 65375 of 2025 is rejected at the SR stage itself.

02.04.2026

TRP

TO

1. K.P.Raja Stalin,
S/o.K.P.Balasingh,
Door No.4/127,

Main Road,
Pudhukottai,
Thoothukudi
Taluk,

3/5



Thoothukudi District..

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P.B. BALAJI,J

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