



*C.M.P.(MD)No.16192 of 2025
in S.A.(MD)SR.No.4604 of 2020*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.02.2026

Pronounced on : 27.02.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.16192 of 2025
in S.A.(MD)SR.No.4604 of 2020
and S.A.(MD)SR.No.4604 of 2020

1.N.Govindarajan

2.N.Ramachandran

3.N.Narayanan

... Petitioners/
Appellants

Vs.

1.Ravindran

2.Uma Maheswari

...Respondents/
Respondents

Prayer in C.M.P.(MD)No.16192 of 2025 : The Civil Miscellaneous Petition filed under Order IV Rule 9(4) of Madras High Court Appellate Side Rules, praying to condone the delay of 2032 days in representing the second appeal against the decree and judgment passed by the learned Subordinate Judge, Ramanathapuram dated 12.07.2019 in A.S.No.29 of 2018 by partly allowing the judgment and decree dated 12.03.2018 made



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in O.S.No.185 of 2013 on the file of the learned District Munsif, Ramanathapuram.

Prayer in S.A.(MD)SR.No.4604 of 2020 : The Second Appeal filed under Section 100 C.P.C., against the judgment and decree made in A.S.No.29 of 2018 on the file of the learned Subordinate Judge, Ramanathapuram dated 12.07.2019 by partly allowing the judgment and decree made in O.S.No. 185 of 2013 on the file of the learned District Munsif Court, Ramanathapuram dated 12.03.2018.

(in both cases)

For Petitioners : Mr.K.Navaneetha Raja

For Respondents : Mr.J.Anand Kumar

COMMON ORDER

The Civil Miscellaneous Petition has been filed invoking Order IV Rule 9(4) of Madras High Court Appellate Side Rules seeking orders to condone the delay of 2032 days in representing the second appeal in S.A. (MD)SR.No.4604 of 2020 against the judgment and decree made in A.S.No.29 of 2018 dated 12.07.2019 on the file of the Subordinate Court, Ramanathapuram, partly allowing the judgment and decree passed in O.S.No.185 of 2013 dated 12.03.2018 on the file of the District Munsif Court, Ramanathapuram.



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2. The petitioners filed a suit in O.S.No.185 of 2013 on the file of the District Munsif Court, Ramanathapuram claiming the reliefs of declaration, permanent injunction and mandatory injunction. The learned District Munsif, after full trial, passed a judgment and decree dated 12.03.2018 dismissing the suit. Aggrieved by the dismissal of the suit, the petitioners preferred an appeal in A.S.No.29 of 2018 and the learned Subordinate Judge, Ramanathapuram, upon considering the materials available on record and on hearing the arguments of both the sides, passed a judgment and decree dated 12.07.2019 partly allowing the appeal and granted the relief of declaration but confirmed the judgment of the trial Court with regard to permanent and mandatory injunction. Challenging the said judgment and decree, the petitioners have preferred the present second appeal.

3. It is not in dispute that the petitioners filed the present second appeal on 24.01.2020 and the same was returned by the Registry on 29.01.2020 directing compliance of the defects pointed out therein. It is evident from the records that the petitioners have represented the second appeal along with the above petition on 19.09.2025 to condone the delay



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of 2032 days in representing the second appeal.

4. The reason canvassed in the delay condonation petition is that the certified copies of the judgment and decree were made ready on 24.10.2019 and that the petitioners had applied for certified copies of all the documents relating to the original suit as well as the appeal suit. It is further stated that the first petitioner was affected with viral fever and, due to the same, the Second Appeal was filed before this Court only on 24.01.2020, resulting in a delay of five days in filing the appeal. It is their further case that after the filing of the Second Appeal, the same was returned for want of certain necessary documents and that while the first petitioner was attempting to secure the said documents, the entire nation was affected by the COVID-19 pandemic. According to the petitioners, the Government imposed several lockdowns one after another, restricting the movement of the public from one District to another, and therefore they could not meet their advocate and the advocate's office also remained closed for several months. It is further stated that after the lockdown restrictions were relaxed, the first petitioner met his advocate for re-presenting the Second Appeal, but the case bundle along with the returned



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bundle had been misplaced and could not be traced, as the advocate had shifted his office to another place. According to the petitioners, the records were traced out only recently and consequently there occurred a delay of 2032 days in representing the papers. It is therefore contended that the delay is neither wilful nor wanton and that the petitioners would be put to great loss and hardship if the delay is not condoned.

5. The respondents have filed a counter affidavit disputing the averments made in the affidavit filed in support of the petition and have contended that the reason of the COVID-19 pandemic cannot justify such a huge delay of 2032 days. It is further stated that, apart from making a general averment regarding the COVID-19 pandemic and the alleged misplacement of bundles in the advocate's office, the petitioners have not assigned any specific reason for the delay, much less explained the delay for each day satisfactorily. The respondents would further contend that though the length of delay may not be material, in the absence of any sufficient cause, and particularly in view of the fact that the respondents have been enjoying the fruits of the decree for several years after the dismissal of the first appeal on 12.07.2019, the petitioners are not entitled



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to unsettle the settled position. It is also pointed out that the petitioners have not explained the period during which the bundles were returned, allegedly misplaced, and subsequently traced out. Hence, according to the respondents, the petition being devoid of merits is liable to be dismissed.

6. Before entering into further, it is necessary to refer the decision of the Hon'ble Supreme Court in ***Indian Statistical Institute Vs. Associated Builders and others*** reported in (1978) 1 SCC 484, wherein, the Hon'ble Apex Court has held that the petition under Section 5 of the Limitation Act to condone the delay in preferring the appeal is different from a petition to condone the delay in representing the appeal papers and the relevant passages are extracted hereunder:

“11. In a recent judgment of this Court delivered on August 3, 1977 in Mahant Bikram Dass v. Financial Commissioner and Ors., reported in (1978) ISCR 262 it is pointed out that the petition under section 5 of the Limitation Act seeking to condone the delay in preferring an appeal is different from a petition for excusing the delay in re-presentation.

12. Even in cases where there has been delay in



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filing of an appeal or objection petition within the time prescribed when the delay is not due to want of bona fides by the petitioner and is due to the party having acted in a particular manner on the wrong advice given by his legal adviser, he cannot be held guilty of negligence so as to disentitle him to plead sufficient cause under section 5 of the Limitation Act.”

7. The Hon'ble Supreme Court in ***Pathapati Subba Reddy (died) by LRs and others Vs. The Special Deputy Collector (LA)*** reported in (2024) 4 SCR 241 has summarized the principles with regard to the condoning of delay and the same are extracted hereunder:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed



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in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”



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8. It is necessary to refer the decision of the Hon'ble Supreme Court in ***H.Guruswamy and others Vs. A.Krishnaiah since deceased by LRs*** reported in ***2025 INSC 53***,

“13.We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.

14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a lis between the parties.

15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while



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considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.”

9. In a similar case, the Hon'ble Supreme Court in ***H.Dohil Constructions Co. Pvt., Ltd., Vs. Nahar Exports Ltd.***, reported in **2015 (5) CTC 534**, dealt with the delay of 9 days in filing the first appeal and



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the delay of 1727 days in representing such appeal. In a suit for specific performance, the trial Court granted damages and refused to grant specific performance and challenging the same, the plaintiff filed an appeal with 9 days delay and represented such appeal papers with the delay of 1727 days. Since the High Court condoned the delay, the same was challenged before the Hon'ble Supreme Court and the relevant passages are extracted hereunder:

“23. When we apply those principles to the case on hand, it has to be stated that the failure of the Respondents in not showing due diligence in filing of the appeals and the enormous time taken in the refiling can only be construed, in the absence of any valid explanation, as gross negligence and lacks in bonafides as displayed on the part of the Respondents. Further, when the Respondents have not come forward with proper details as regards the date when the papers were returned for refiling, the non-furnishing of satisfactory reasons for not refiling of papers in time and the failure to pay the Court fee at the time of the filing of appeal papers on 06.09.2007, the reasons which prevented the Respondents from not paying the Court fee along with the appeal papers and the failure to furnish the details as to who was their counsel who was previously entrusted with the filing of the appeals



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cumulatively considered, disclose that there was total lack of bonafides in its approach. It also requires to be stated that in the case on hand, not refiling the appeal papers within the time prescribed and by allowing the delay to the extent of nearly 1727 days, definitely calls for a stringent scrutiny and cannot be accepted as having been explained without proper reasons. As has been laid down by this Court, Courts are required to weigh the scale of balance of justice in respect of both parties and the same principle cannot be given a go-by under the guise of liberal approach even if it pertains to refiling. The filing of an application for condoning the delay of 1727 days in the matter of refiling without disclosing reasons, much less satisfactory reasons only results in the Respondents not deserving any indulgence by the Court in the matter of condonation of delay. The Respondents had filed the suit for specific performance and when the trial Court found that the claim for specific performance based on the agreement was correct but exercised its discretion not to grant the relief for specific performance but grant only a payment of damages and the Respondents were really keen to get the decree for specific performance by filing the appeals, they should have shown utmost diligence and come forward with justifiable reasons when an enormous delay of five years was involved in getting its appeals



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24. We, therefore, find total lack of bona-fides in its approach and the impugned order of the High Court in having condoned the delay in filing as well as refiling, of 9 days and 1727 days respectively, in a casual manner without giving any reason, much less acceptable reasons, cannot therefore be sustained. The appeals are allowed and the impugned order is set aside.”

10. In the present case, as already pointed out, the two reasons canvassed are that Covid-19 pandemic and consequent lockdown and that the case bundle along with returned bundle were misplaced in their advocate office.

11. As rightly contended by the learned counsel appearing for the respondents, it is a matter of common knowledge that owing to the outbreak of the Covid-19 pandemic, Government of India imposed a nation wide lockdown commencing from 25.03.2020 and during the second wave of the pandemic in the year 2021, restrictions continued till July 2021. In other words, normal functioning of Courts and public offices



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remained affected from March 2020 till mid-2021. In the case on hand, even according to the petitioners, certified copies of the judgment and decree of the first appellate Court were made ready on 24.10.2019. As already pointed out, it is evident from the records that the second appeal was filed on 24.01.2020 and the same was returned on 29.01.2020. However, the second appeal was represented only on 19.09.2025. As rightly contended by the learned counsel appearing for the respondents, Covid-19 pandemic had subsided by July 2021 itself and the petitioners have not offered any other valid reason or ground for the subsequent delay, except vaguely alleging that bundles were misplaced in the advocate office.

12. The learned counsel appearing for the respondents would submit that the petitioners have not filed any affidavit from the advocate or the person incharge of that office, where the bundles were allegedly misplaced.

13. As rightly contended by the learned counsel appearing for the respondents, the petitioners have not stated as to when they came to know



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about that the bundles were misplaced and when the same were subsequently traced out.

14. Considering the facts and circumstances of the case, it is manifest that the conduct of the petitioners reflects gross negligence, lack of diligence and want of bona fides. As rightly contended by the learned counsel appearing for the respondents, though the first appeal was dismissed as early as on 12.07.2019, the petitioners have been protracting the proceedings for more than 6 ½ years thereafter, that too without even securing numbering of the second appeal. Merely because the present application seeks condonation of delay in representing the second appeal, it cannot be contended that the matter is confined only between the applicants and the Court and therefore warrants a lenient consideration. In the present case, the delay of 2032 days is certainly enormous and inordinate. As per the dictum of the Hon'ble Apex Court, such inordinate delay cannot be condoned in a causal or mechanical manner.

15. Considering the above, this Court has no hesitation in holding that the petitioners have not shown any sufficient cause for the inordinate



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delay of 2032 days in representing the second appeal and as such, this Court concludes that the above petition is absolutely devoid of merit and is liable to be dismissed.

16. In the result, this Civil Miscellaneous Petition is dismissed. Consequently, S.A.(MD)SR.No.4604 of 2020 is rejected at SR stage itself.

27.02.2026

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

To

- 1.The Subordinate Judge,
Ramanathapuram.
- 2.The District Munsif,
Ramanathapuram.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
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in S.A.(MD)SR.No.4604 of 2020
and S.A.(MD)SR.No.4604 of 2020

Dated : 27.02.2026