



*C.M.P.(MD)No.2862 of 2025  
in S.A(MD)No.SR 9518 of 2025*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.12.2025

Pronounced on : 05.01.2026

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

C.M.P.(MD)No.2862 of 2025

in

S.A(MD)No.SR 9518 of 2025

The State of Tamil Nadu rep.by  
The District Collector,  
Thoothukudi District.

: Petitioner/Appellant

Vs.

Jothi Lakshmi : Respondent/Respondent

**PRAYER in C.M.P(MD)No.2862 of 2025:** Civil Miscellaneous Petition filed under Order XLI, Rule 3(A) of C.P.C., to condone the delay of 4863 days in filing the second appeal against the judgment and decree made in A.S.No.15 of 2007, dated 18.06.2008 on the file of the Additional District Court, Thoothukudi, reversing the judgment and decree passed in O.S.No.9 of 2005 on the file of the Sub Court, Kovilpatti.

**PRAYER in S.A (MD) SR No. 9518 of 2025 :** Second Appeal filed under Section 100 of C.P.C., against the judgment and decree, dated 18.06.2008 in



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A.S.No.15 of 2007 on the file of the Additional District Court (Fast Track Court No.II, Thoothukudi reversing the judgment and decree, dated 10.01.2006 in O.S.No.9 of 2005 on the file of the Sub Court, Kovilpatti.

For Petitioner : Mr.A.Ajmal Khan,  
Additional Advocate General,  
for Mr.D.Gandhiraj,  
Special Government Pleader.

For Respondent : Mr.J.Barathan.

### **ORDER**

The above application has been filed under Order XLI, Rule 3(A) of C.P.C., to condone the delay of 4863 days in filing the second appeal, challenging the judgment and decree made in A.S.No.15 of 2007, dated 18.06.2008 on the file of the Additional District Court, Thoothukudi, reversing the judgment and decree passed in O.S.No.9 of 2005, dated 10.01.2006 on the file of the Sub Court, Kovilpatti.

2.The respondent as plaintiff filed the suit in O.S.No.9 of 2005, claiming the reliefs to declare that the suit properties are belonging to the plaintiff and for consequential permanent injunction, restraining the defendant and their men from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

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3.The petitioner/defendant filed a written statement and contested the suit. The learned Subordinate Judge, Kovilpatti, after framing necessary issues and after full trial, passed the judgment, dated 10.01.2006, dismissing the suit. Aggrieved by the dismissal of the suit, the plaintiff filed an appeal in A.S.No.15 of 2007 and the learned Additional District Judge, Thoothukudi, upon considering the materials available on record and on hearing the arguments of both the sides, passed the judgment and decree, dated 18.06.2008, allowing the appeal and thereby setting aside the judgment and decree of the trial Court and granted the reliefs of declaration and permanent injunction as prayed for by the plaintiff. Challenging the judgment and decree of the first appellate Court, the defendant, who is the Government of Tamil Nadu represented by the District Collector, Thoothukudi, filed the present second appeal along with the above application to condone the delay of 4863 days in filing the second appeal.

4. The case of the petitioner canvassed in the delay condonation petition is that after the disposal of the first appeal, the respondent/plaintiff



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had initiated various proceedings before the Revenue authorities for grant of patta; that the respondent has also filed number of writ petitions, seeking directions to consider her representations claiming patta for the suit property and that since the officials of the petitioner/defendant were grappling with number proceedings before various authorities, they could not prefer the second appeal within the stipulated time.

5.It is their further case that the property in question was used for conducting sports events by the members of Adi-Dravidar Community and this situation has escalated in sensitivity, placing the Revenue Authorities in a precarious position due to potential for conflict; that the Adi-Dravidar community has a history of organizing numerous sports events at the said location, thereby establishing a pattern that may complicate property rights and claims; that the officials have been compelled to invest considerable time and resources into identifying a viable solution that addresses the competing interests while mitigating the risk of law and order issues and this necessity for intervention reflects the broader implications of property disputes in community contexts, highlighting the need for a thorough examination of the



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facts and circumstances surrounding the claims; that there is a delay of 4863 days in filing the second appeal and the said delay is neither wilful nor wanton and due to the above said administrative reasons, Covid-19 and other natural calamity, namely, flood in Thoothukudi and that the petitioner will be put to irreparable loss and untold hardship, if the delay is not condoned.

6. It is the further case of the petitioner that the property in dispute has been classified as 'Village Natham' or 'Sarkar Poramboke', which is typically reserved for communal purposes; that the respondent/plaintiff, taking advantage of the judgment and decree passed by the first appellate Court, is taking coercive steps against the officials, but the officials are facing the wrath of village people claiming right over the same property for conducting sports events and that therefore, it is just and necessary to condone the delay of 4863 days in preferring the appeal.

7. The respondent/plaintiff filed a counter affidavit raising objections and further stated that the above application is filed to condone an inordinate and grossly unexplained delay of 6050 days (more than 16 years) in preferring



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the second appeal and the same is wholly unsustainable and an abuse of process of law; that the petitioner failed to provide any sufficient and *bona fide* reasons for the extraordinary delay; that the petitioner's vague and general excuses, such as administrative reasons, Covid-19 pandemic and natural calamities lack any specificity or substantiation with proper records; that the petitioner being a Government authority is expected to act diligently and responsibly in legal matters, but the present petition reflects gross negligence, deliberate inaction and complete lack of diligence for which, no justifiable cause has been shown; that the petitioner has claimed that multiple proceedings were initiated by her for patta and other reliefs, which clearly shows that the petitioner was well aware of the respondent's claim all along and despite such knowledge, the petitioner has not chosen to file second appeal within the prescribed period and remained completely passive; that the petitioner has deliberately suppressed the fact that the writ petition in WP(MD)No.27872 of 2024 was filed against him, challenging his actions concerning the subject property and the said writ petition came up for hearing on 21.11.2024 and 07.01.2025 and this Court was pleased to grant a stay in respondent's favour and immediately, after the writ petition was taken up and



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interim stay was granted, the petitioner has rushed to file the second appeal along with the above delay condonation petition and the same clearly indicates that the petitioner has approached this Court only as a counter blast to the adverse proceedings in the writ petition.

8. It is the further defence of the respondent that the Covid-19 pandemic excuses is wholly untenable as the pandemic occurred on 15.03.2020 to 28.02.2022, whereas the delay in filing the second appeal started in 2008 itself; that the excuse of natural calamities in Thoothukudi is equally baseless, as there is no specific evidence provided as to how any flood or calamity prevented the filing of the appeal for more than a decade before the pandemic even occurred; that though the petitioner claimed that the suit property is sarkar poramboke land (Government land) and village natham, they have failed to take any steps to establish their claim in Court for 16 years and even the allegation that the suit property is a Sarkar Poramboke land and Village Natham are contradictory to each other ; that the petitioner's reliance on classification of land (such as 'Sarkar Poramboke' or Village Natham') is irrelevant as the plaintiff had acquired valid title through sale deeds from legal



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heirs and the first appellate Court had already adjudicated the issue in her favour; that the petitioner failed to show that any substantial question of law that would justify entertaining a second appeal after such a long delay; that the petitioner has been enjoying the property lawfully since acquiring it through registered sale deeds in the year 2004 and the first appellate Court has already upheld her title in the year 2008 and that therefore, the second appeal as well as the delay condonation petition are not maintainable and are liable to be dismissed.

9. The only point for consideration is whether the delay of 4863 days in filing the second appeal, challenging the judgment and decree made in A.S.No.15 of 2007, dated 18.06.2008 on the file of the Additional District Court, Thoothukudi, is liable to be condoned.?

10. Before proceeding further, it is necessary to refer the decision in the case of *Shankargir Vs. State of Madhya Pradesh and another passed in Civil Appeal No.14613 of 2025, dated 05.12.2025*, wherein the Hon'ble Apex Court expressed dismay over the manner in which the High Court condoned



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the delay of 1612 days on the mere asking of the State Government. The Hon'ble Supreme Court reminded that the law is well-settled in terms limitation and condoning delay that sufficient cause has to be looked into.

11. In the case of *Thirunagalingam Vs. Lingeswaran and another* reported in **2025 Live Law SC 560**, the Hon'ble Apex Court reiterated the legal position that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay and the relevant portion is extracted hereunder :

*“Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present*



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*case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”*

12. The learned counsel for the respondent would rely on the decision of Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. Ramkumar Choudhary*** reported in **2024 SCC Online SC 3612**, wherein its earlier decision in ***Union of India Vs. Jahangir Byramiji Jeejeebhoy(D) through his legal heir***, reported in **2024 SCC Online SC 489**, was referred and the relevant passages are extracted hereunder :

*5.1. In Union of India v. Jahangir Byramiji Jeejeebhoy (D) through his legal heir, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:*

*“24. In the aforesaid circumstances, we made it very*



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*clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.*

*25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.*

*26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of*



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*the appellants, it appears that they want to fix their own period of limitation for 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.*

*27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of*



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*equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.*

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*34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.*

*35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.*

*36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs."*



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After referring to the above said decision, the Hon'ble Apex Court observed,

*'Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.'*

6. At the same time, we cannot simply brush aside the delay occurred in preferring the second appeal, due to callous and lackadaisical attitude on the part of the officials functioning in the State machinery. Though the Government adopts systematic approach in handling the legal issues and preferring the petitions/applications/appeals well within the time, due to the fault on the part of the officials in merely communicating the information on time, huge revenue loss will be caused to the Government exchequer. The present case is one such case, wherein, enormous delay of 1788 days occasioned in preferring



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*the second appeal due to the lapses on the part of the officials functioning under the State, though valuable Government lands were involved. Therefore, we direct the State to streamline the machinery touching the legal issues, offering legal opinion, filing of cases before the Tribunal / Courts, etc., fix the responsibility on the officer(s) concerned, and penalize the officer(s), who is/are responsible for delay, deviation, lapses, etc., if any, to the value of the loss caused to the Government. Such direction will have to be followed by all the States scrupulously.*

13. Bearing the above position in mind, let us consider the case on hand.

As already pointed out, the reasons canvassed for the delay are Covid-19 and other natural calamity ie., flood in Thoothukudi apart from administrative reasons.

14.As rightly pointed out by the learned counsel for the respondent, Covid-19 impacted the limitation period only between March 2020 and February 2022. But in the case on hand, the first appellate Court disposed of the appeal on 18.06.2008 ie., 12 years before the Covid-19 pandemic. Regarding the flood in Thoothukudi, the petitioner has not elaborated anything further.

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15. Now turning to the administrative reasons, according to the petitioner, the respondent after, dismissal of the first appeal, initiated various proceedings before the Revenue Authorities for grant of patta and also filed number of writ petitions, seeking directions to consider the petitioner's representation claiming patta for the suit property and that since the officials of the petitioner were grappling with the above proceedings, they could not prefer the appeal within the stipulated time.

16. Though it has been averred that various proceedings were initiated before the Revenue Authorities and number of writ petitions were filed before the High Court, the petitioner has not chosen to mention the same. The learned counsel for the respondent would submit that the respondent filed a writ petition in W.P(MD)No.27872 of 2024 against the petitioner challenging his actions concerning the subject property and the said writ petition was taken up for hearing on 21.11.2024 and 07.01.2025 and the High Court has granted stay in favour of the respondent and only thereafter, the petitioner has filed the present appeal along with the delay condonation petition as a counter blast to the writ proceedings.



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17. Admittedly, the petitioner has nowhere whispered about the writ petition in WP(MD)No.27872 of 2024, filed by the respondent and granting of stay by this Court. Even assuming for argument sake that the respondent initiated various revenue proceedings and filed several writ petitions, that by itself is not a ground or reason for not filing the second appeal.

18. The learned Additional Advocate General appearing for the petitioner would submit that the suit property has been classified as Sarkar Poramboke or Village Natham indicating that it is a Government owned and designated for public or community use. He would further submit that since the land in dispute is the Government land, the same cannot be allowed to be grabbed by the respondent and that is why the petitioner has preferred the present appeal challenging the judgment and decree of the first appellate Court, which are erroneous factually and legally.

19. The learned counsel for the respondent would submit that the petitioner/Government had taken some pleas before the first appellate Court,



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but the same came to be rejected; that the Government failed to take any steps to establish their claim for 16 years, that the very allegation of the Government that the suit properties are Sarkar Proramboke or Village Natham are contradictory to each other and that the Government reliance on classification of land as Sarkar Proramboke or Village Natham is totally irrelevant as the respondent had acquired valid title through sale, which came to be accepted by the first appellate Court.

20. As per settled legal position referred above, the Courts while considering the plea of condonation of delay must not start with merits of the matter, but can consider the merits for the purpose of condoning the delay only if the sufficient cause given by the litigant and the opposition of the other side is equally balanced or stand on equal footing.

21. As already pointed out, the reasons canvassed, by no stretch of imagination can be taken as sufficient cause or reason and moreover, the reasons canvassed were also not proved. It is settled law that administrative reason cannot be taken as a sufficient cause so as to attract Section 5 of



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Limitation Act or Order 41 Rule 3A of C.P.C. No doubt, though the respondent has alleged that there occurred delay of 6050 days, the Registry has calculated the delay at 4863 days. The petitioner has sought to condone the delay of more than 13 years in filing the second appeal.

22. When the matter was taken up for enquiry, the learned counsel for the respondent would submit that the respondent is in possession and enjoyment of the suit property. The learned Additional Advocate General, on instructions, would admit the same. Moreover, the second appeal is not an automatic right and it is a discretionary appeal granted by the Constitution requiring the High Court's satisfaction that the case involves a substantial question of law. It is not just a matter of facts; the core requirement is a substantial question of law as defined in Section 100 C.P.C. Hence, the contention of the petitioner that they should be given an opportunity to prosecute the second appeal cannot be countenanced.

23. Considering the above, this Court has no hesitation in holding that the petitioner has not shown any sufficient cause for the inordinate delay of



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4863 days in filing the second appeal and as such, this Court concludes that the petition is devoid of merits and is liable to be dismissed.

24. In the result, the Civil Miscellaneous Petition is dismissed.

Consequently, the Second Appeal is rejected at the SR stage itself.

**05.01.2026**

NCC : Yes /No  
Index : Yes / No  
Internet : Yes / No  
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To

1.The Additional District Court, Thoothukudi.

2.The Sub Court, Kovilpatti.

2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

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**K.MURALI SHANKAR,J.**

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Pre-delivery order made in  
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in  
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Dated: 05.01.2026