

IN THE COURT OF THE ADDL.DISTRICT JUDGE II, ALAPPUZHA

Present: Smt.BHARATHI.S., Addl. District Judge II

Saturday the 31st day of May, 2025

IA.01/2024 in CMA .11/2024 (Filed on. 04.04.2024)

Appellant:-

Kitt Baiju, aged 36 years,
S/o. V. S. Baiju
Vechusseri House,
Thondankulangara Ward,
Avalookkunnu P.O., Aryad South Village,
Ambalappuzha Taluk, Alappuzha.

(By Adv. Sri. Tomy Mathew)

Respondents:-

1. State of Kerala,
Rep. by the District Collector,
Alappuzha.
2. District Registrar (Audit),
District Registrar (Audit Office),
Registration Complex,
Alappuzha.
3. The Sub Registrar,
Sub Registrar Office,
Puthenambalam.

(By Addl. Government Pleader,
Alappuzha.)

This petition to condone the delay of 581 days in filing CMA 11/24 having been finally heard on 30.05.2025 and the court on 31.05.2025 passed the following:-

ORDER

1. This is a petition filed u/S.5 of the Limitation Act to condone the delay of 581 days in filing CMA.11/2024.
2. CMA.11/2024 is filed u/S.45 B (4) of the Kerala Stamp Act.
3. The petitioner/appellant submitted that the impugned order was passed without giving any notice to him and without affording him an opportunity to hear. He got information about the impugned order only on 29.02.2024 when he visited the Sub Registrar's Office for taking encumbrance certificate of his property. He then obtained a copy of the said order under the Right to Information Act. Though he applied on 29.02.2024, the copy was obtained on 05.03.2024. The failure to file appeal in time was therefore not due to any negligence on his side. The delay happened since the petitioner had no notice about the proceedings. He therefore requested to condone the delay of 581 days in filing the appeal.
4. Though the learned Additional Government Pleader submitted that the petition is opposed, no objection filed in spite of granting several adjournments.
5. The point for consideration is:
 1. Whether the petitioner is entitled for getting an order condoning the delay?
6. Heard both sides and perused records.

The Point:

7. From the records, it is seen that the impugned order was passed on 30.08.2022. The petitioner claims that he did not get any notice before passing the said order and therefore, he was not aware about the same. There is no documents produced by the respondents in order to show that any notice was served to the petitioner before the impugned order so as to show that the contention of the petitioner is not correct. In the circumstance, I am inclined to accept the submission made by the petitioner with respect to the delay. It is therefore found that the petitioner is entitled for an order condoning the delay caused in filing the CMA. Point is answered accordingly.
8. In the result, I.A allowed. No costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 31st day of May, 2025.

Sd/-
BHARATHI S.
ADDL.DISTRICT JUDGE -II

Appendix:- NIL

Id/-
ADDL.DISTRICT JUDGE -II