

IN THE COURT OF THE SUB JUDGE, CHERTHALA

Present:-Ms. Lakshmy.S., Sub Judge
Tuesday, 27th day of May 2025/6th Jyaishta 1947

IA 1/2023 in A.S.40/2023

(Filed on: 19.10.2023)

Petitioners/Appellants:-

1. Rugmini, aged 78, W/o Anirudhan,
Kannuvalli House, Kudavachoor Muri,
Vechoor Village, Vaikom Taluk.
2. Sarala, aged 64, D/o Pankajakshi,
Poonthottathil, Perunthuruthu Muri,
Kanjikkuzhi Village, Cherthala Taluk.
3. Uthaman, aged 56, S/o Pankajakshi,
of – do – do.
4. Dhananjayan, aged 68, S/o Pankajakshi,
of – do – do.
5. Santhamma, aged 75, D/o Padmavathi,
Kandathil House, Aryadu Muri,
Komalapuram North Village,
Ambalappuzha Taluk.
6. Pushpavalli, aged 68, D/o Padmavathi,
Nilam Nikarth House, Aryadu Muri,
Komalapuram North Village,
Ambalappuzha Taluk.
7. Vijayakumari, aged 61, D/o Pathmavathi,
Puthiyaveedu Veliyil, Kattoor Muri,
Kalavoor Village, Ambalapuruzha Taluk.

8. Subhapan, aged 58, S/o Padmavathi,
Velikkakath House, Chetikadu Muri,
Pathirappalli Village, Ambalapuzha Taluk.
9. Ragini, aged 52, D/o Padmavathy,
Pulikkipparambu House, Mannanchery Muri,
Mannanchery Village.
10. Sulatha, aged 58, W/o Sahadevan,
Poonthottathil, Perunthuruthumuriyil,
Kanjikkuzhi Village, Cherthala Taluk.
11. Sumod, aged 36, S/o Sahadevan, of - do -do -

By Adv. Anish Madhav

Cr. Petitioners/ Respondents:-

1. Abhilash, aged 44, S/o Lakshmanan,
Thoosath House, Charamangalam Muri,
Thanneermukkam South Village.
2. Jose Joseph, aged 47, S/o Joseph Paul,
Kunnappallil, Charamangalam Muri,
Thanneermukkam South Village.
3. Udayan, aged 60, S/o Pankajakshi,
Poonthottathil, Perunthuruthu Muri,
Kanjikkuzhi Village, Cherthala Taluk.
4. Pramod, aged 32, S/o Sahadevan,
Poonthottathil, of – do -do.
5. Reji, aged 59, S/o Ponnappan, Deepalayam,
Mararikulam North Muri, Mararikulam North Village,
Cherthala Taluk.
6. Deepa, aged 53, D/o Kanchana,
Deepalayam, of – do – do.

7. Jyothi, aged 49, D/o Kanchana, Deepalayam, of – do – do.
8. Maya, aged 44, D/o Kanchana, Deepalayam, of – do – do.

R2- By Adv. T.Jayakrishnan

R6 to R8 – By Adv. Raju P.G

This petition having been finally heard on 20.05.2025 and the Court on 27.05.2025 passed the following:

ORDER

This petition is filed by the appellant under S.151 CPC and Sec.5 of the Limitation Act to condone the delay of 11 days in filing the appeal.

2. The averments in the petition, in brief, are as follows:

The appeal is filed against the decree and judgment passed in OS No:127/2017 on the file of Munsiff's Court, Cherthala. The decree and judgment was passed on 31.7.2023. On 05.08.2023 application for the certified copies was filed and the date notified for receiving the copies was on 04.09.2023. On 05.09.2023 the copies were received. The appeal ought to have been filed on or before 30.09.2023. But the certified copies were misplaced at petitioner's home and they could be traced back only on 07.10.2023. Hence, a delay of 11 days was caused in preferring the appeal which is not because of any willful laches or negligence from the part of appellants. Hence the petition.

3. The respondents did not raise any serious objections to the application.

4. Heard and perused the records.

5. The following points arise for consideration.

- (i) Is there is any sufficient ground to condone the delay of 11 days in filing the appeal?
- (ii) Is the petition allowable?

(iii) Order as to costs?

6. **Point Nos. 1 and 2:** These points are considered together for convenience. The petition is to condone the delay of 11 days in filing the appeal against the judgment and decree in OS 127/2017 before the Munsiff's Court, Cherthala. The reason for the delay is that the certified copies were misplaced at petitioner's home. The said contention of the petitioner is not seriously disputed by the respondents.

7. In **Basheer.M.Picha v. Indian Bank, 2013(2) KLT 951** the Hon'ble High Court has held that even if there was some laches, if explanation does not smack of malafides or is not put forward as a dilatory tactics, Court should lean in favour of the applicant. Hence this court finds that an opportunity can be granted to the petitioners to contest the matter, for a meritorious disposal of the appeal suit. This Court find it just and proper to allow the application on terms. Points are answered accordingly.

8. Point No.3:- Considering the facts and circumstances of the case, costs is ordered to the respondents.

In the result, I.A. is allowed with costs of Rs.500/- to the respondents and delay is condoned.

Dictated to the Confidential Assistant, typed by her directly to the Computer, corrected and pronounced by me in open court on this the 27th day of May, 2025.

Sd/-
LAKSHMY.S
SUB JUDGE

Appendix:- Nil

Id/-
SUB JUDGE

