

**IN THE COURT OF DISTRICT JUDGE, ERNAKULAM**

Present:-

Smt. Honey M. Varghese, District Judge

Thursday, the 06<sup>th</sup> day of November, 2025/15<sup>th</sup> Karthika, 1947

**I.A.2 of 2025 in A.S No.58 of 2025**

**Petitioner/Appellant:-**

Sebastian, son of late George, aged 58 years, residing at Charamkulam House, Rajeev Lane Road, Vaduthala P.O., Ernakulam, Kochi-682023.

By Advs. A.Balagopalan, Rajagopalan A, Rahul K.Pradeep, Babilu Baby and Kavya R

**Respondents/Respondents:-**

1. St. Antonys Vivaha Bahaya Sangham, St. Antonys Church, Vaduthala, Kochi- 682023, represented by its President Mr. K.R. Michael, son of late Raphel, Kappithanparambil House, Vaduthala P.O., Pin- 682023, its Secretary, Mr. George P.O., son of late Ouseph, Pozhamangalalth House, Vaduthala P.O., Pin-782023 and its Treasurer, Mr. V.V. Jacob, son of Varghese, Vettussery House, Vaduthala, Kochi- 682023.
2. Flory George (Died)
3. Mrs. Tressa Joseph (Died)
4. Lilly George, wife of George, aged 74 years, residing at Manayil House, Poomthuruthu, Near South Chittoor Road, South Chittoor, Ernakulam, Kochi-682027.
5. C.T. Varghese, son of late Mariam, aged 72 years, Chakkalackal House, Mangazha Lane, Vaduthala P.O., Ernakulam, Kochi- 682023.
6. Julie Annie, wife of Anson, Kollamparambil House, Puthuvyppu P.O., Vypeen, Ernakulam, Kochi-682508.
7. Johnny, son of late Tressa Joseph, aged about 58 years residing at Thundiparambil House No: XII/51, Thundiparambil House, Near Nagayakshi Temple, Varappuzha P.O., Ernakulam.

8. Benny, son of late Treesa Joseph, aged about 56 years residing at Thundiparambil House, George Eden Lane-1, Cheriappilly, Kaitharam P.O., North Parur, Ernakulam.
9. Augustine TJ., son of late Treesa Joseph, aged about 55 years residing at Thundiparambil House, House No: XVII/552, Olanad, Alangad P.O., Varappuzha, Ernakulam.
10. Antony, son of late Treesa Joseph, aged about 49 years residing at Thundiparambil House, Mother Teresa Lane, Vaduthala P.O., Ernakulam, Kochi-682023.
11. Sherly, daughter of late Treesa Joseph and wife of Johny, aged about 48 years residing at House No: XV/90, Near Rudramala Temple, Ambaladakavu, Cheranellore P.O., Ernakulam, Kochi- 682034.
12. Felix Sabu, son of late Flory George, aged 55 years, Charamkulam House, Janakeeya Road (Boat Jetty Road), Vaduthala P.O., Ernakulam, Kochi-682023.
13. Susan Michael, daughter of late Flory George and wife of Michael, aged 53 years, residing at Pollayil House, Mother Teresa Lane, Mundamveli P.O., Ernakulam, Kochi- 682507.

R1 by Adv.Sijo George.

R4 to R13 called absent.

This petition is filed under Section 5 of the Limitation Act, praying this court to condone the delay of 34 days in filing the above Appeal Suit.

This petition is coming on for hearing on 06.11.2025 and the court on the same day passed the following:-

### **ORDER**

This petition is filed u/s.5 of the Limitation Act to condone the delay of 34 days happened in the filing of appeal.

2. The appeal is filed against the decree and order passed in E.A. 694/2015 in EP 32/2015 in OS 145/2007 dated 29/01/2025 on the file of II Additional Sub

Court, Ernakulam.

3. The petitioner submitted that, though the order was passed on 29/01/2025, the clerk attached to petitioner's counsel office could not file the copy application in time. On 07/02/2025, the application for certified copy of the decree and judgment was filed and on 17/02/2025 his counsel was served with copy of the order. Upon receipt of the certified copy of the order, the counsel informed him about the same and told that appeal will have to be filed on or before 10/03/2025. But, on 06/03/2025, while the counsel attempted to pick the paper from the floor which was fallen from the file, he suddenly suffered slip disc. As a result of which, he was unable to sit and walk. Immediately, he was taken to doctor and he advised him to take complete bed rest for one month. As advised by him, his counsel was taking bed rest for restoration of his health. On account of the above mentioned reasons, his counsel could not prepare the appeal and file the same in court in time. There was no willful laches or negligence either on his part or on the part of his counsel in not filing the appeal in time. So there occurred a delay of 34 days in filing the above appeal. Hence, the petition.

4. Notice served on the respondents. R1, R5 & R11 served. R1 appeared through Adv. Sijo George and filed objection.

5. The first respondent filed objection stating that there is no sufficient reasons stated for the delay. The appeal as well as the petition are not maintainable either in law or on facts and filed on experimental basis. The averments of the

affidavit in support of the petition are not fully correct and hence denied. It is submitted that the reasons set out for condoning the delay in filing appeal are absolutely false and the long delay is also not explained. The above petition is filed by the petitioner to prop up his meritless case. It is respectfully submitted that the Petitioner has not shown any sufficient reason or sufficient cause in the petition. The malafide intention of the petitioner is to protract the matter indefinitely and there is absolutely no merit in the case of the petitioner. None of the contentions or grounds raised in the affidavit/Petition is maintainable. If the petition is allowed, the respondent will be put to irreparable injury and serious prejudice. The petition may be dismissed as there is no merit and with an intent to delay finality in the proceedings. Therefore, the above meritless petition to condone the delay is only to be dismissed with exemplary costs. In the circumstances they prayed to dismiss the petition.

6. Heard both sides.

7. The contention raised by the petitioner is that while the counsel attempted to pick the paper from the floor which was fallen from the file, he suddenly suffered slip disc. He was advised to take bed rest for one month. The matter of condonation of delay is the discretion of the court. As rightly contended by the learned counsel for respondent no documents are produced to support the contentions. But considering the object behind the Limitation Act that the matter is to be considered on merits than technically, the reason stated by the petitioner is

accepted. Taking note of the above aspects, I am of the view that the delay of 34 days in filing the above appeal is liable to be condoned in the interest of justice.

In the result, petition is allowed.

Dictated to the confidential Asst. transcribed and typed by her, corrected and pronounced by me in open court on this the 06<sup>th</sup> day of November, 2025.

Sd/-

**Honey M.Varghese**  
**District Judge**

sk/  
comp. By:

**I.A 2/2025 in**  
**AS No.58/2025**  
**Order Dated: 06.11.2025**