

IN THE COURT OF DISTRICT JUDGE, ERNAKULAM

Present:-

Smt. Honey M. Varghese, District Judge

Wednesday, the 17th day of September, 2025/26th Bhadra, 1947

I.A.1 of 2025 in A.S No.120 of 2025

Petitioners/Appellants:-

1. S.Anantha Viswanathan, S/o.Late Subramaniya Ayyar, aged 63 years, Thekkemadom, Pallipparambu Kavu, Nadama Village, Near Railway Station Road, Thripunithura- 682 301.
2. S.Ramakrishnan, S/o. late V.Subramaniya Ayyar, aged 61, Thekkemadom, Pallipparambu Kavu, Nadama Village, Near Railway station Road, Tripunithura, Pin- 682301.
3. S.Naryana Swamy, S/o. late V.Subramaniya Ayyar, aged about 58, Thekkemadom, Pallipparambu kavu, Nadana Village, Near Railway Station Road, Tripunithura, Pin 682301
4. S.Girija, D/o. late V.Subramaniya Ayyar, aged about 55, Thekkemadom, Pallipparambu kavu, Nadama village, Near Railway station Road, Tripunithura, Pin- 682 301.

By Advs. M.S. Unnikrishnan, Nidhin Raj Vettikkadan, Anjo Francis, Meera Nair IP and Anjala Nazrin Subair.

Respondents/Respondents:-

1. M.S.Venkitasubramanian, S/o. Late Sarada Ammal, Maliyakkal Madom, Thrikkariyoor, Kothamangalam- 686 692, Ernakulam.
2. Sarada Ammal(Late), D/o Late Sri. Viswanatha Ayyar, aged 76 years, Maliyekkal Madam , Trikkariyoor, Kothamangalam, Ernakulam District.
3. M.S.Anandaviswanathan, S/o Late Sarada Ammal, Maliyakkal Madom, Thrikkariyoor, Kothamangalam 686 692, Ernakulam.
4. M.S.Bhageerathy, D/o. late Sarada Ammal, IX/149, Kavumpalli Madom, Parappally Road, Thiruvankulam-682 305, Ernakulam.
5. M.S Parvathy Ammal, D/o.late Sarada Ammal, Tharayil Madom, East Nada, Mavelikkara, Alappuzha- 690 101.
6. M.S.Guruvayoorappan, S/o late Sarada Ammal, Maliyakkal Madom, Thrikkariyoor, Kothamanglam 686 692, Ernakulam.

7. M.S.Geetha, D/o.late Sarada Ammal , Vadakekadom, Nr.Govt Hospital Road, Chalakudi, Thrissur -680 307.
8. Sri. Subramaniya Ayyer, S/o Late Sri. Viswanathan Ayyar, aged 73 years, Thekkemadom, Palliparambu Kavu, Nadama Village, Near Railway Station Road, Thripunithura, Pin- 682301(Rep by his wife Smt. Jayalakshmi, aged 72 years, residing at Thekkemadom, Palliparambu Kavu, Nadama Village, Near Railway Station Road, Thripunithura, Pin-682301.
9. Smt. Meenakshi Ammal, D/o Late Sri. Viswanatha Ayyar, aged 83 years, Guruvihar, Kannankulangara, Thrippunithura-682301.
10. Mr. N. Subramaian, S/o. Late Smt. Meenakshi Ammal, Ashirwad, Kannankulangara, Tripunithura, Ernakulam-682 301.
11. Mr. N. Anantha Viswanathan, S/o. Late Smt. Meenakshi Ammal Karthika, Kannankulangara, Tripunithura, Ernakulam-682 301.
12. N. Lakshmy, S/o. Late Smt. Meenakshi, W/o. R. Gopalakrishnan (Retd. Major) Flat No. 18, 2nd floor Padma Enclave, Trichi Road, Dindingal-624005, Tamil Nadu.
13. N. Parvathy, S/o. Late Smt. Meenakshi, W/o. K.P. Krishnan, Kolikkara Madom, Sreemoolanagaram.P.O., Ernakulam District, Pin: 683 580.

R1, 2 and 9 No more.

R3 to R7 by Advs.Mohan Idiculla Abraham and Martin D.Alumkara

R10, 11 and R13 by Adv. Rajasree. R.

This petition is filed under Section 5 of the Limitation Act, praying this court to condone the delay of 7 days in filing the appeal .

This petition is coming on for hearing on 17.09.2025 and the court on the same day passed the following:-

ORDER

This is an application filed by the petitioner under section 5 of the Limitation Act to condone the delay of 7 days in filing the above appeal.

2. The appeal is filed challenging the judgment and final decree dated 10/04/2025 passed in FDA 8066/2008 by the 2nd Addl.Sub Court. The certified copy of the judgment was received on 05/07/2025. After excluding the period u/s. 12(3) of the Limitation Act, the appeal ought to have been filed on 04/08/2025.

Due to financial constraints, he could not meet his counsel and to give instructions to file the appeal. Hence, the delay of 7 days in filing the appeal happened.

3. Respondents submitted formal objection.

4. Heard both sides.

5. It can be seen from the affidavit that the delay occurred in filing the appeal was that due to financial constraints, he could not meet his counsel for giving instructions to file the appeal. The matter of condonation of delay is the discretion of the court. 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 7 days in filing the above appeal is liable to be condoned in the interest of justice.

In the result, the petition is allowed. The delay of 7 days in filing the above appeal is hereby condoned .

Dictated to the confidential Asst. transcribed and typed by her, corrected and pronounced by me in open court on this the 17th day of September , 2025.

Sd/-

Honey M.Varghese
District Judge

sk/
comp. By:

I.A 1/2025 in
AS No.120/2025
Order Dated: 17.09.2025