

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
KOTTAYAM**

Present: Sri. Manoj M., Principal District Judge

Wednesday, the 10th day of September, 2025
19th day of Bhadra, 1947

I.A. No.1/2025 in C.M.A. No.29/2025
(I.A.No.1/2024 in O.S. No.403/2024 of Principal
Munsiff Court, Kottayam

Petitioners/Appellants:-

- 1 Merchant Association represented by its
General Secretary Tomy Abraham, S/o. Abraham,
Kanjirakkattu House, Pallickathodu, Anickadu P.O.,
Kottayam, 686503.
- 2 S. Rajeev, aged 59 years,
S/o. M. Somasekharan Kartha, President,
Merchant Association, Pallickathodu,
Anickadu P.O., Kottayam - 686503.
- 3 Tomy Abraham, aged 59 years, S/o. Abraham,
Kanjirakkattu House, General Secretary, Merchant
Association Pallickathodu, Manalunkal P.O.,
Kottayam - 686503.

By Adv. Jayakrishnan R.

Counter Petitioner/Respondent:-

Bino Raghavan, aged 43, S/o. Raghavan,
Devan Stores, Anickadu P.O.,
resides at Villamakkal House, Anickadu Kara,
Aruvikuzhy P.O., Anickadu Village, Kottayam.

By Adv. Jaison Paliyil

Petition filed under Section V of Limitation Act.

This petition is filed to condone the delay of 50 days in
fling the appeal.

This Petition coming up on for final hearing on 09.09.2025 and the Court on 10.09.2025 passed the following:-

ORDER

This is an application filed by the third appellant under Sec.5 of the Limitation Act to condone the delay of 50 days in filing the Civil Miscellaneous Appeal against the Order dated 28.02.2025 in I.A.No.1/2024 in O.S. No.403/2024 passed by the Principal Munsiff Court, Kottayam.

2. According to the petitioner / third appellant, though the order was passed on 28.02.2025, his counsel was affected by chickenpox and a certified copy was applied for only on 05.04.2025. As the Court was closed for vacation thereafter, the appeal was filed immediately on re-opening. Thus, a delay of 50 days occurred. There is no willful negligence or laches on the part of the petitioner and sufficient cause has been shown for the delay. Hence, the delay may be condoned.

3. The respondent, upon receipt of notice, entered appearance through Advocate Jaison Paliyil and filed a counter affidavit contending that the petition for condonation of delay is devoid of merit and liable to be dismissed. It is further contended that the petitioner / appellant has continued the

prohibited money circulation business even after the interim order and the plea regarding counsel's illness and omission to apply for a certified copy is false. Hence, the petition is liable to be dismissed.

4. Heard both sides and perused the records.
5. The only point which arises for consideration is;

Whether there is sufficient ground to condone the delay of 50 days in filing the appeal?

6. **The Point** :- The reason stated by the petitioner / third appellant for the delay of 50 days is that his counsel was affected by chickenpox and a certified copy was applied for only on 05.04.2025. As the Court was closed for vacation thereafter, the appeal was filed immediately on re-opening. The expression "sufficient cause" is to be liberally interpreted. The facts reveal that there was no gross negligence on the part of the petitioner. However, it is found that the substantial right of the petitioner to agitate the appeal on merits need not be denied on narrow technicalities and the inconvenience caused to the respondent can be compensated on payment of cost. Therefore, I am of the view that this delay condonation

petition can be allowed, subject to the petitioner paying a cost of Rs.1,000/- to the respondent and filing a memo. Point found in favour of the petitioner / third appellant.

7. In the result, the petition stands allowed and the delay of 50 days in preferring the appeal stands condoned, subject to the following conditions :-

1. The petitioner shall pay cost of Rs.1,000/- (Rupees One Thousand only) to the respondent, within ten days and produce the receipt/memo before the court.
2. If the cost as directed above is not paid within the stipulated time, the application will stand dismissed.

Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in open Court, on this the 10th day of September, 2025.

Sd/-
Manoj M.
District Judge

APPENDIX : NIL

Id/-
District Judge.

// True Copy //

Copied by :
Compared by :

Sd/-
Manoj M.
District Judge