

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

Present: Sri. Manoj M., Principal District Judge

Friday, 24<sup>th</sup> day of April, 2026  
4<sup>th</sup> day of Vaishakha, 1948

**I.A. No.2/2025 in AS No.119/2025**

(O.S. No.377/2019 of the Munsiff's Court, Changanacherry)

**Petitioner/Appellant:-**

Joseph Ulahannan, aged 60 years, S/o. Ulahannan,  
Kaiyalaparambil House, Vakathanam Village,  
Changanacherry Taluk, now residing at  
Kaiyalaparambil House, Puthuppally P.O.,  
Puthuppally Village, Kottayam Taluk.

By Adv. Rayin K.R.

**Respondents/Respondents:-**

- 1 Rosamma Ulahannan, aged 85 years, W/o. Ulahannan,  
Kaiyalaparambil House, Umbidi P.O., Thottackadu Village,  
Changanacherry Taluk.
- 2 Annamma Joseph, aged 65 years, W/o. Joseph,  
Vadakkeparambil House, Thrikodithanam P.O.,  
Thrickodithanam Village, Chaganacherry Taluk.
- 3 Mariamma Varghese, aged 60 years, W/o. Varghese,  
Valeparambil House, Kalathoor P.O., Kalathoor Village,  
Vaikom Taluk, Kottayam District.
- 4 Aleyamma K.U., aged 55 years, W/o. Mathew,  
Kaiyalaparambil House, Umbidi P.O., Thottackadu Village,  
Changanacherry Taluk.
- 5 Iyob Ulahannan, aged 48 years, S/o. Ulahannan,  
Kaiyalaparambil House, Umbidi P.O., Thottackadu Village,  
Changanacherry Taluk.

R1 No More

R2 to R5 by Adv. E.A Sajikumar

Petition filed under Section 151 of the Code of Civil Procedure 1908 and Section 5 of the Limitation Act.

This petition is filed to condone the delay of 74 days in filing this appeal.

This Petition coming up on for hearing on 24.04.2026 and the Court on the same day passed the following:

### **ORDER**

The petition is filed by the appellant under Section 5 of the Limitation Act for condone the delay of 74 days in filing the above numbered Appeal Suit against the Judgment and decree dated 13.06.2025 passed by the Munsiff's Court, Changanacherry in OS No.377/2019, whereby the suit was decreed.

**2.** According to the petitioner, he was laid up and therefore unable to approach his lawyer's office to give instructions for filing the copy application for the judgment and decree. The application was ultimately filed on 22.09.2025, and upon receipt of the decree, the petitioner promptly filed the appeal. Thus, there is a delay of 74 days in filing the Appeal Suit. The said delay was neither wilful nor due to any laches on the part of the petitioner/appellant, and hence, it is prayed that the delay may be condoned.

**3.** The first respondent is no more. Respondent Nos.2 to 5 have filed objection contending that the petitioner / appellant has

not furnished any satisfactory explanation for the delay in filing the appeal. It is further stated that no specific reason has been mentioned for his alleged period of being laid up, and no supporting documents have been produced along with the affidavit to substantiate the same. They also contend that it is the duty of the counsel to apply for and obtain copies of the judgment and decree in time. Hence, they pray for dismissal of the petition.

4. Heard both sides.

5. The only point which arises for consideration is;

Whether there is sufficient ground to condone the delay of 74 days in filing the appeal?

6. **The Point** :- According to the petitioner, he was laid up and was unable to instruct his counsel to apply for copies of the judgment and decree, and was therefore unable to file the appeal within the prescribed time. Consequently, a delay of 74 days occurred in filing the appeal. To substantiate the same, he has produced a medical certificate issued by the Department of Orthopedics, S.K. Hospital, Trivandrum, wherein he has been advised to avoid travelling for a period of three months from 18.06.2025. However, it is to be noted that the petitioner had the option of contacting his counsel over the phone and giving necessary instructions for filing the appeal within the prescribed time.

7. In **Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd. [1962 (2) SCR 762 : AIR 1962 SC 361]**, the Hon'ble Supreme Court has held as follows: -

*"In construing S.5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be light - heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the court to condone delay and admit the appeal. This discretion has been deliberately conferred on the court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice. As has been observed by the Madras High Court in Krishna v. Chathappan [1890 ILR (13) Mad. 269] "S.5 gives the court a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words 'sufficient cause' receiving a liberal construction so as to advance*

*substantial justice when no negligence nor inaction nor want of bona fide is imputable to the appellant."*

**8.** It is settled law that, while dealing with an application for condonation of delay, a liberal approach is to be adopted. Though the respondents have contended that no specific reason or supporting documents were produced to substantiate the petitioner's alleged period of being laid up, the petitioner has produced a medical certificate to prove his illness. The reason for the delay, as stated above, appears to constitute sufficient cause.

**9.** Moreover, the substantive right of the parties to agitate the matter on merits ought not to be denied on narrow technicalities. Hence, I am of the view that there was no wilful laches or negligence on the part of the petitioner in not filing the appeal within the prescribed time. The inconvenience caused to respondent Nos.2 to 5 can be compensated by costs. Hence, this Court is inclined to condone the delay on payment of costs. The point is found in favour of the petitioner.

**10.** In the result, the petition stands allowed and the delay of 74 days in preferring the appeal stands condoned, subject to following conditions:-

Copy of ORDER  
IA No.2/2025  
in A.S. No.119/2025

Dated : 24.04.2026

1. The petitioner shall pay cost of Rs.3,000/- (Rupees Three Thousand only) to the respondent Nos.2 to 5 within ten days from the date of this order 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.

For compliance to 18.05.2026.

*Dictated to the Confdl. Asst., transcribed and typed by her, corrected by me and pronounced in open Court, on this the 24<sup>th</sup> day of April, 2026.*

Sd/-  
**Manoj M.**  
**District Judge**

**APPENDIX : NIL**

Id/-  
**District Judge.**

// True Copy //

Copied by :  
Compared by :

Sd/-  
**Manoj M.**  
**District Judge**