

**IN THE COURT OF THE MUNSIF, ATTINGAL
PRESENT: SMT. SWATHI.R.KRISHNAN, MUNSIF
MONDAY 13th JANUARY, 2025 / 23rd POUSHA, 1946**

IA No.10/2022 in OS No. 575/2008

Petitioners/ Plaintiffs:

1. Sudhambika, D/o Radha, Mylakunnil Veedu, Near Govt. H.S. Kilimanoor, Pazhayakunnummel Village.
2. Sheela, D/o Radha, Mylakunnil Veedu, Near Govt. H.S. Kilimanoor, Pazhayakunnummel Village.
3. Sheeja, D/o Radha, Mylakunnil Veedu, Near Govt. H.S. Kilimanoor, Pazhayakunnummel Village.

By Advocate: Sri. K.S. Vinod & Smt. Nima Vinod

Counter Petitioners/ Defendants:

1. Rugmini, W/o Sudhakaran, Sudha Bhavan, Moothala, Pallikkal Village.
2. Suresh Babu, S/o Sivasankaran, Mylakunil Veedu, Near Govt. Kilimanoor, Pazhayakunnummel Village.
3. Sathyabhama, aged 80 years, Varuthattil Veedu, Near Madan Nada, Kurakkada, Kizhuvilam Village. (Proposed additional 3rd defendant)
4. Prasad, S/o Sathyabhama, aged 45 years, Varuthattil Veedu, Near Madan Nada, Kurakkada, Kizhuvilam Village. (Proposed additional 4th defendant)

By Advocates: Sri. S. Lenin & Smt. J.S. Radhika

This petition having been finally heard on 13.01.2025 and the court on same day passed the following:

ORDER

This is a petition filed under Section 5 of the Limitation Act.

2. **The petition averments are as follows:** The petitioner is the 2nd plaintiff in the suit. The petitioner had instructed his lawyer to file an application to review the order in IA.7/22. The copy of order was received by the petitioner on 09-06-2022 and the review petition should have been filed on or before 09-07-2022. But there was a delay of four days in filing the review petition since the petitioner's counsel was forced

to stay in Bangalore. The delay is not willful. Hence this petition to condone the delay for filing the review petition.

3. **The respondents filed an objection contending as follows:** The petition is not maintainable either under law or on facts. This petition is filed experimentally. The contention that the counsel was out of station is false and the petition is filed to delay the trial. Hence the petition may be dismissed with costs.

4. The points that arose for consideration are:

1. Can the petition be allowed ?

2. Reliefs and costs ?

5. Heard both sides.

6. **Point No.(1):** The review petitioners filed this petition to condone the delay of 4 days in filing the petition to review the order dated 31-05-2022. The reason stated by the petitioner for the delay that occasioned was that the petitioner's counsel was in Bangalore due to some urgent family commitments. The respondents filed an objection contending that the reason is not acceptable.

7. The reason stated by the petitioners is the non availability of their counsel and this is a valid reason and there are no willful latches on the part of the petitioner. In such instances, where the petitioners are able to substantiate reasons for the delay and if the reason is not due to any fault on the part of the petitioners they should be granted an opportunity to put forth their contentions. Hence this court is of the view that the petitioner has sufficiently explained the reason for delay of 4 days in filing this petition. Hence this court is of the view that there are sufficient reason to condone the delay.

8. **Point No.(2):** Hence in result, the petition is allowed. The delay of 4 days is condoned.

Dictated to the Confidential Assistant, transcribed and typed by her corrected and pronounced by me in Open Court on this the 13th day of January, 2025.

Sd/-
SWATHI.R.KRISHNAN
MUNSIFF

Appendix: Nil

Id/-
MUNSIFF

//True Copy//

Typed by: Lasitha
Compared by: Sheena.K

MUNSIFF