

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, JAYANKONDAM.

Present:- **Tmt.S.Dhanalakshmi, B.A.M.L.,**
Principal District Munsif,
Jayankondam.

On Monday, the 9th day of March 2026

I.A.No.03/2025

-in-

O.S.No.39/2023

1. Ramasamy

2. Saminathan

3. Nagarajan

4. Anjalai Ammal

... Petitioners/Defendants

//VS//

Periyasamy

... Respondent/Plaintiff

This petition came upon for final hearing before me on 02.03.2026 in the presence of learned counsel of Thiru.M.Shanmuganathan, for Petitioners/Defendants and learned counsel of Thiru.P.Murugesan, for Respondent/Plaintiff and filing counter and after perusal of petition, affidavit, counter and case records and after hearing both sides arguments and having stood over for consideration till this day this court delivered the following:-

ORDER

1.The petition is filed CPC Sec 151 and Under Sec.5 of the Limitation Act to condone the delay of 268 days in to set aside the *ex-parte* decree passed by this court dated on 23.04.2024.

2. The Brief averment of the petition is as follows:-

The petitioner herein is the 3rd defendant in the suit. The petitioner has filed this petition on behalf of the other defendants also. The suit is filed for Permanent injunction. In the suit, though the petitioners appeared before this court through counsel, since no counter statement was filed on behalf of the petitioners, an

exparte decree came to be passed on 23.04.2024. The petitioner was suffering from severe ill-health and was affected by jaundice, and was undergoing native treatment. Due to the said illness, the petitioner was unable to meet the advocate and enquired about the status of the case, it came to light that an exparte decree had been passed against the petitioners on 23.04.2024 for not filing the counter statement. This did not happen wilfully or due to negligence. Therefore, the petitioners pray that this court maybe pleased to set aside the exparte decree dated 23.04.2024, condone the delay of 268 days that has occurred, accept the counter statement to be filed by the petitioners, and permit the suit to be proceeded with further, and thus render justice.

3.The brief averment of the counter filed by the respondent:-

The petition is false frivolous and vexatious. Although more than 6 months time was granted to the petitioners to file their counter statement, they failed to do so and therefore an exparte order was passed against them. Even along with this petition, the petitioners have not filed the counter statement. In the suit, the respondent was examined as PW1 and on the respondents side one Govindasamy was examined as PW2. Thereafter, the case was adjourned for judgment on 26.03.2024, 04.04.2024 and 23.04.2024, and after considering the documents marked on the side of the respondent as Ex.A1 to Ex.A5, judgment was passed accordingly. Subsequently, even after waiting till the expiry of the statutory limitation period, the petitioners did not file any petition to set aside the exparte judgment and decree in this case. Hence, on 26.04.2024, the respondent filed C.A.No.754/2024 seeking certified copies of the judgment and decree, and obtained the same. Therefore, it is prayed that this court may be pleased to dismiss the petition filed by the petitioners with costs.

4. Neither the petitioners nor the respondent has placed any oral evidence or documentary evidence before this court.

5. Now it is to decide whether this petition is going to be allowed or not?

6. Heard both sides. Records perused.

7. The learned counsel appeared on behalf of the petitioners has submitted that the inability of the petitioner is to be considered and the liberal approach to the adopted while considered in the application under Sec.5 of Limitation Act 1963.

8. The learned counsel appeared on behalf of the respondent has submitted that argued that the reason for each and every day of delay is not properly explained by the petitioner and the averments made in the petition for delay have not been established by way of placing the reliable documents. Hence, this petition has to be dismissed.

9. Considering both sides submission, it is observed that the petitioner has filed this application to condone the delay of 268 days to set aside the *ex-parte* decree on 23.04.2024.

10. Condone of delay is a doctrine mentioned in the ***Limitation Act 1963***, the Act postulates time limits. This “***Condonation of delay***” doctrine is an exception to the limitation period. According to this, if the aggrieved party can furnish “sufficient cause” the court can with discretionary jurisdiction record the delay or “condone delay” and proceed with case. The term “***sufficient cause***” is not defined under the limitation Act. It varies from case to case. The court has wide discretion for the determination of what constituted a sufficient cause depending on facts and circumstances of each case. If the court is refusing to “condone delay” it can result in a meritorious matter being discarded and the roots justice being defeated. Every day's delay must be explained does not mean the doctrine is to applied in an irrational manner. It must be applied in sensible manner and not a literal one. Moreover the litigants should not suffer to contest his own case by refusing to condone the delay.

Finally, the delay of 268 days could be condoned subject that the petitioner is directed to pay a sum of **₹.1000/-** to the respondents on or before **18.03.2026**, failing which the petition will be dismissed automatically.

Dictated to steno-typist, typed by her directly, corrected and pronounced by me in the open court, this the **09th** day of **March 2026**.

Principal District Munsif,
Jayankondam.

Both sides witness and exhibits:- Nil

Principal District Munsif,
Jayankondam.