

**IN THE COURT OF SUBORDINATE JUDGE,  
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,  
Subordinate Judge  
Madurantakam**

**Thursday, this 09<sup>th</sup> day of April, 2026**

**I.A No. 6/2025**

**in**

**I.A No. 3/2023**

**in**

**A.S.No. 3/2023**

**(CNR No. TNCG13000129-2023)**

Badrunisha

...Petitioner/Appellant

..Vs..

Deepak Kumar

...Respondent/Respondent

This petition coming up for final hearing on 23.2.2026 in the presence of M/s.K.R.Narasimhan, P.Santhaseelan, P.M.Nisha, Y.Andrews Samuel Jebaseelan and Peter Jeyaprakash, counsels for the petitioner/appellant and Mr.E.Elango, counsel for respondent/respondent and after hearing the arguments on both sides and upon perusing the records, having stood over for the consideration of this court till date, this court delivered the following;

**ORDER**

This application is filed by the petitioner Under Section 5 of Limitation Act to condone the delay of 34 days in filing application to restore I.A No. 3/2023 which dismissed by this court on 02.09.2025.

**2. Averments of the petitioners:**

Petitioner/Appellant had filed the above appeal to set aside the order dated 24.02.2023 passed I.A. No. 421/2022 in O.S. No. 32/2021 by the District Munsiff Cum Judicial Magistrate at Cheyyur consequently.

Petitioner had filed I.A. No. 3 of 2023 to stay the operation of the order and further proceedings in O.S. No. 32/2021 and I.A. No. 4/2023 for temporary injunction. The above said I.A.'s came up for hearing on 02.09. 2025. On the said day, petitioner was, suffering from viral fever, therefore she couldn't able to attend her case and instruct her counsel to appear in the case. So, no representation was caused.

The above said I.A.'s dismissed for non appearance, petitioner's absence in the case is neither willful nor wanton. The reason assigned is bonafide, nothing concealed nor suppressed. Petitioner had fair chance for winning the relief sought for in the I.A.'s, if the dismissal order passed by the Court is not set aside and restore the I.A.'s. She would be irreparable loss and hardships.

Hence the petitioner files this petition to condone the delay of 34 days in filing the application to restore in I.A No. 3/2023 which was dismissed by this court on 02.09.2025.

**3. Counter of the Respondent's counsel in brief:**

The respondent denies the allegations set out in the affidavit. The present petition is not at all maintainable. This court was pleased to grant several times to petitioner for enquiry in the said application. The petitioner wantonly failed to conduct the above case. Only to drag the further proceedings, the present petition is vexatiously filed by the petitioner. If the petition is allowed, this respondent will be put into great loss and hardship. On the other hand, no prejudice will be caused to the other side, by dismissing this application.

Absolutely no merits in the petition. Hence this petition is liable to be dismissed with cost.

4. No oral or documentary evidence adduced by both sides.
5. Heard both sides and perused the records.

**6. Point:**

***“Whether this application can be allowed?”***

This petition has been filed under Section 5 of the Limitation Act seeking to condone the delay of 34 days in filing the application to restore the I.A. No. 3/2023, which was dismissed for default on 02.09.2025.

It is the case of the petitioner that due to viral fever she was unable to appear on 02.09.2025 and that this court has dismissed the I.A 3/2023 for default and hence this petition under section 5 of limitation act.

Per contra, the respondent defend that there is no reasons set out for the delay and this application was filed to protract the proceedings. Hence he seeks for dismissal of the application.

On perusal of the records and consideration of the submissions made, it is seen that the delay sought to be condoned is 34 days. But on perusal of affidavit there is no reason muchless sufficient cause was stated for the said delay of 34 days. Petitioner simply stated that she was suffering from viral fever on 02.09.2025 and hence she was unable to attend the court on 02.09.2025. But there is no single line that what happened her and what prevents her to file the restore petition within 30 days and delay of another 34 days in filing the restore petition. In the absence of same the delay cannot be condoned. On this timeline itself this application is liable to be dismissed.

In summation without any reason for delay muchless sufficient cause an application under section 5 limitation act cannot be allowed. This application

lacks for non stating the reason and sufficient cause for the delay of 34 days. Hence this application is liable to be dismissed and this point is decided accordingly.

**7. Result:**

In the result this application is dismissed as devoid of merits. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 09<sup>th</sup> day of April, 2026.

Subordinate Judge,  
Madurantakam.

**Both sides Evidence and Exhibits : Nil.**

Subordinate Judge,  
Madurantakam.

**FAIR/DRAFT ORDER**  
**I.A No. 6/2025**  
**in**  
**I.A No. 3/2023**  
**in**  
**A.S No. 3/2023**  
**D.O.D: 09.04.2026**  
**SUB COURT,**  
**MADURANTAKAM**