

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR.**

Present :- Thiru. K.R.Kannan, B.A., B.L.,
(J.O.Code.TN01220)
Additional Subordinate Judge,
Tiruppur.

Monday the 09th day of March 2026

I.A. No. 4/2025

I.A. No.3/2024

O.S. No. 102/2017

Mrs. M.M.D. Abirami Lingeshwari

...Petitioner/3rd Defendant

-VS-

1. M. Pushpavathy @ Pushpanjali

...Respondent /Plaintiff

2. M/s. Kannabiran Trust (Since dissolved)

3. P. Muthu Kannabiran

4. M.M.G. Anandhi

...Respondents 2-4/Defendants 1,2,4

This petition came before me on 09.03.2026 for final hearing in the presence of Thiru.R.Senthilvel, B.A., B.L., Learned Advocate for petitioner and Thiru. N.Poongodi., Advocate for Respondent No.1, Thiru. R.Selvanayagam., Advocate for the Respondent No.3, Thiru.Somasundaram., B.A., B.L., Advocate for 4th Respondent and R2 remined exparte after hearing both side arguments and on perusal of available records, this court passed the following :-

// ORDER //

The Petitioner/ 3rd Defendant filed this petition Under Sec 5 of Limitation

Act to condone the delay of 115 days to restore IA.No. 3/2024 which was left to dismiss for default due to non payment of batta as per the averments stated in the affidavit filed along with this petition with cost.

2. The averments stated in the affidavit is as follows :-

2.1) The petitioner is the defendant No.3 in the suit. The present petition filed to restore I.A.No.3/2024 on the file of this Court, which was filed seeking suitable orders under Section 340 of the Criminal Procedure Code to forward a complaint on account of the offence committed in Court.

2.2) The signature of the petitioner had been forged in the records of Lok Adalat Award dated 26.04.2017 by the Respondents herein. This is also evident from the observations made by this Hon'ble Court in I.A.No.846/2022 filed to recall the Lok Adalat Award and the consequent decree that was passed as if the petitioner agreed for a compromise and the suit was decreed. While, allowing the recall petition in I.A.No.846/2022, this Court vide order dated 01.03.2024 made the following observations:

"On comparison of the signature of the 3rd and 4th defendant in the impugned award, it is noticed that the signature found different. As, such this court is of view that as alleged by the petitioner, there is a chance of fabrication and forge. As, such this court is of view that this application could be allowed by recalling the warrant passed before Tiruppur Legal Services Authority on 26.04.2017".The award passed before Tiruppur Legal Service Authority on 26.04.2017 in [O.S.No. 102/2017](#) is recalled.

2.3) Subsequently, the suit bearing O.S.No.102/2017 was restored the petitioner preferred an application under Section 340 Criminal Procedure Code 1973 (analogues to Section 379 of Bharathiya Nagarik Suraksha Sangita, 2023)

read with Section 195(1) (b) (i) and (ii) read with Section 199, 200, 205, 463, 465, 466, 471 of the Indian Penal Code (analogous to 236, 237, 242, 336, 337, 340 of the Bharathiya Nyaya Sanhita, 2023 seeking for orders to forward a complaint and initiate criminal enquiry. This application was numbered as [I.A.No 3/2024](#).

2.4) On 15.10.2024, this court dismissed [I.A.No.3/2024](#) for default. Meanwhile, the plaintiffs did not represent in the suit and [O.S.No.102/2017](#) was also dismissed for default on 07.11.2024. When, there is an observation of fabrication and forge done before the judiciary made by the court, the court has inherent powers to initiate enquiry and take criminal action on those who have committed the grave offence.

2.5.The application in [I.A.No.3/2024](#) is made primarily to point out the fraud that was perpetrated in the court and in important court records, in the presence of Lok Adalat Members. When such be the case, this is similar to contempt proceedings, where the Court such be the case, this is similar to contempt proceedings, where the Court has to stringently view the matter, dehors an application at the instance of the petitioners. Similar to how a contempt petition cannot be dismissed for default, likewise, even the application under Section 340 ought not to have been dismissed for default.

2.6) On 02.09.2024 the next hearing date was mentioned as 30.10.2024 and accordingly the petitioner appeared through her counsel on 30.10.2024, but the [I.A.No.3/2024](#) was dismissed for default for bata not paid and no representation for petitioner on 15.10.2024. Even online mentions the next date of hearing is 30.10.2024. Hence, the non-payment of batta and non representation is neither willful nor deliberate. If the application is not restored, the petitioner would be put to irreparable prejudice. The signature of the petitioner had been forged in the Lok Adalat Award in utter violation of the provisions of the Legal Services

Authorities Act, 1867. The affidavit filed in I.A.No.3/2024 be treated as a part and parcel of this application. So the petitioner asked this court to allow the petition as prayed for with cost.

3. The objections raised by the 1st Respondent in the counter is as follows :-

3.1) The application to condone the delay of 115 days to restore I.A.No.3 of 2024 is unsustainable in law and on facts. Except, as to matters which are expressly admitted herein by this respondent puts the petitioner to strict proof of the rest of the allegations made in the affidavit in support of the application.

3.2). The application has not been properly filed. I.A.No.3 of 2024 was dismissed for default due to non payment of batta on 15.10.2024. The present application appears to have been filed only on 18.03.2025. There is no proper explanation for non-filing of the application for restoration within 30 days permitted under law. The delay is 123 days which remains unexplained. It is denied that the petitioner was present in Court on 15.10.2024. If that is true, the present application would have been filed immediately. As to why there has been a huge delay, has not been explained. The petitioner has to prove the each and every day of the delay with proper explanation. The petitioner has not averred any reason for the delay. Hence the petition is liable to be dismissed in limine.

3.3. The petitioner has not filed the restore application to restore the I.A.No. 3 of 2024, Without filing the restore application to restore the I.A.No. 3 of 2024, the present application is not maintainable.

3.4. The reference to the order passed by this Honourable Court in I.A.No.846 of 2022 in her own interpretation to the same, is unwarranted. The petitioner is in the habit of putting signatures differently at different points of time. This is evidenced from the signatures in the present affidavit also. It is a fact that the petitioner was present before Lok Adalath and signed the compromise on 26.04.2017. It is pertinent that in the subsequent suit OS No.9 of

2018, filed by the petitioner, she has not disputed the Lok Adalath Settlement and on the contrary, admitted the same. Therefore it is puerile to contend that the signature of the petitioner is forged.

3.5. In IA No.846 of 2022, this Honourable Court wanted to give the benefit of doubt to the petitioner and it only observed that there is a chance for fabrication and forgery: There is no finding that the signature is forged or fabricated. This is to be considered along with the conduct of the petitioner in the stand she has taken in her plaint in OS No.9 of 2018. Unfortunately, misleading statements have been made by the petitioner with a view to side track the issue and proceed against her parents with prosecution. The present suit is to reopen the decree in OS No.102 of 2017. Now that the suit is reopened, all other questions are to be decided only in the trial of the suit.

3.6. In the entire affidavit, there is no convincing reason offered by the petitioner as to why I.A.No.3 of 2024 was allowed to be dismissed for default and why batta was not paid. There is no explanation as to why there is a huge delay of 123 days which is erroneously stated as 115 days. Nothing survives in the present proceeding. Only if the suit is restored, the parties can go through trial and asked to dismiss the petition.

4. The objections raised by the 3rd Respondent in of the counter is as follows :-

4.1) The application to condone the delay of 115 days to restore IA.No.3 of 2024 is unsustainable in law and on facts. Except, as to matters which are expressly admitted herein, this respondent puts the petitioner to strict proof of the rest of the allegations made in the affidavit in support of the application.

4.2) The application has not been properly filed. I.A.No.3 of 2024 was dismissed for default due to non payment of batta on 15.10.2024. The present application appears to have been filed only on 18.03.2025. There is no proper explanation for non filing of the application for restoration within 30 days permitted under

law. The delay is 123 days which remains unexplained. It is denied that the petitioner was present in Court on 15.10.2024. If that is true, the present application would have been filed immediately. As to why there has been a huge delay, has not been explained. In law, each days delay should be explained for condonation.

4.3) The reference to the order passed by this Honourable Court in I.A.No.846 of 2022 in a half hearted manner and making her own interpretation to the same, is unwarranted. The petitioner is in the habit of putting signatures differently at different points of time. This is evidenced from her signatures in the present affidavit also. It is a fact that the petitioner was present before Lok Adalath and signed the compromise on 26.04.2017. It is pertinent that in the subsequent suit OS No.9 of 2018, filed by the petitioner, she has not disputed the Lok Adalath Settlement and on the contrary, admitted the same. Therefore it is puerile to contend that her signature is forged.

4.4) In IA No.846 of 2022, this Honourable Court wanted to give the benefit of doubt to the petitioner and it only observed that there is a chance for fabrication and forgery. There is no finding that the signature is forged or fabricated. This is to be considered along with the conduct of the petitioner in the stand she has taken in her plaint in OS No.9 of 2018. Unfortunately, misleading statements have been made by the petitioner with a view to side track the issue and proceed against her parents with prosecution. The present suit is to reopen the decree in OS No.102 of 2017. Now that the suit is reopened, all other questions are to be decided only in the suit.

4.5) The suit was filed by the 1st Respondent, Mr Pusphavathy. She is very sick and bed ridden and could not be present in Court on the date it was posted and her Counsel reported no instruction and the suit was dismissed for default. Even now, she is not in a position to walk or attend Court proceedings. The Respondent learns that an application for restoration of the suit has been filed

with a delay condonation petition.

4.6) This respondent submits that this is not a case where I.A.No.3 of 2024 should be entertained and matter should be referred for prosecution. In that event, the members of the Lok Adalath will also become parties. Again there is no comparison between the proceeding sought to be initiated with contempt of Court proceedings.

4.7) In the entire affidavit, there is no convincing reason offered by the petitioner as to why I.A.No.3 of 2024 was allowed to be dismissed for default and why batta was not paid. There is no explanation as to why there is a huge delay of 123 days which is erroneously stated as 115 days. Nothing survives in the present proceeding. Only if the suit is restored, the parties can go through trial. So the respondent asked to dismiss the petition with cost.

5) Both parties have not lead any evidence and no documents were marked on both side. The avernments stated in the affidavit and the objections raised in the counter, the arguments submitted by both were duly considered.

6. Now the Point for consideration is whether this petition has to be allowed or not ?

1) The petitioner herein is the 3rd defendant in the suit. The first respondent is the plaintiff in the suit. The respondents 2 to 4 are defendants 1,2,4 in the suit. The parties are discussed in this order as pleaded in the plaint.

2) The plaintiff filed the suit to declare the sale deed dated 12.05.2003 executed by the plaintiff as nonest, void and nominal and to setaside the sale deed dated 12.05.2003 executed by plaintiff infavour of defendant No.1 and to declare the plaintiffs title to the suit property and for further reliefs with cost on 11.04.2017.

3) On, perusal of the records this court came to know on 21.04.2017 all the defendants appeared through counsel, then as per the memo filed by the both

parties the suit was referred to lok adalat. Then, on 26.04.2017 the suit was disposed stating the matter was settled. Then on 04.04.2024 as per the orders passed by this court in IA.No. 846/2022 the lok adalat award was set aside and the suit was posted for filing written statement of defendant No.1 to 4. Then on 02.09.2024 the 3rd defendant filed an application U/Section 340 Crpc r/w Sec 379 of BNSS and an application under order VII Rule 11 of cpc. The application to reject the plaint and the application filed under sec 340 of Crpc were taken on file as IA.No. 2/2024 and IA.No. 3/2024.

4) Then the counsel for the plaintiff reported no instructions. So, the suit was posted for the appearance of plaintiff on 07.11.2024. On 07.11.2024 due to the non appearance of the plaintiff the suit is left to dismissed for default. Then the 3rd defendant filed the present application to condone the delay of 115 days to restore IA.No. 3/2024. After receiving the notice in the present application the plaintiff filed an application to condone the delay of 86 days to restore the main suit which was left to dismiss for default.

5) The application filed by the plaintiff to condone the delay and to restore the suit were taken on file as IA.No. 6/2025 and IA.No. 8/2026. In IA.No.6/2025 the 3rd respondent endorsed no counter and the other contesting respondents failed to file counter. So, this court after hearing both allowed the same in open court. The suit was restored and again taken on file. Now, the suit is pending for filing written statement of the defendants

6) The learned petitioner/3rd defendant counsel submitted as per the observation made by this court in IA.No.846/2022, this court has held the signature of defendants 3 and 4 in the impugned award found different and there is a chance for fabrication and forge. Based, upon the above observations this court recalled the Lok award passed on 26.04.2017. The learned counsel further argued then the 3rd defendant filed IA.No.3/2024 U/s 340 of Crpc asking this

court to forward a complaint in order to initiate criminal enquiry based upon the orders passed in IA.No.846/2022. The learned counsel further submitted due to non appearance of the plaintiff the suit was dismissed for default. So, this court without noticing the provision of law involved in this application dismissed the same for default. Now, the suit has been restored and so he asked this court to allow this application as prayed for in this petition.

7) But on the other hand the learned respondent/ Plaintiff counsel strongly opposed this petition and submitted IA.No. 3/2024 was dismissed for default only due to non payment of batta. The learned counsel further argued as per sec 5 of Limitation Act it is the duty of the petitioner to explain each and every day delay and the petitioner failed to explain the same. So, on the above ground he asked this court to dismiss this petition. She, further argued the total days of delay was also wrongly mentioned and the petition to restore IA.No. 3/2024 was also not filed.

8) The learned counsel further argued, it is the habit of the 3rd defendant by putting signature differently at different point of time. On the day of settlement all the parties were present and signed before lok adalat as per the settlement. Now, by way of misleading statements the 3rd defendant filed the present application to condone the delay to restore IA.No.3/2024 is not at all maintainable. He further submitted there is no explanation for the huge delay of 121 days and so he asked this court to dismiss the petition with cost.

9) Though, the 3rd respondent in this application filed a detailed counter but during the time of enquiry the 3rd respondent has raised any serious objections to allow this application. The arguments submitted by both were duly considered. The present application was filed by the 3rd defendant to condone the delay of 115 days to restore IA.No. 3/2024. On, perusal of the affidavit the 3rd defendant narrated the observation made by this court in IA.No. 846/2022 to bring the

notice about the importance of IA.No.3/2024. As per the orders passed by this court in IA.No. 846/2022 this court has held in page no. 8 as follows,

“On comparison of the signature of the 3rd and 4th defendant in the impugment award, It is noticed that the signature found different. As, such this court is of view that as alleged by the petitioner, there is chance for fabrication and forge. As, this court is of view that this application could be allowed by recalling the warrant passed before Tiruppur Legal Service Authority on 26.04.2017. However, the signature found in the award not belonged to the petitioner herein.

10) So, in IA.No.846/2022 as per the observations made by this court the 3rd defendant filed IA.No.3/2024 to initiate a criminal action against the plaintiff as per Sec 340 of Crpc. On, perusal of IA.No.3/2024 on 15.10.2024, since there is no representation for petitioner and batta was not paid. So, the said application was dismissed for default. It is settled law it is the duty of the 3rd defendant to prove each and every day delay in this application. But, as per the orders passed by this court in IA.No. 846/2022, Whether there is any fabrication of the signature or forgery was occurred can be decided in IA.No. 3/2024 and in the trial proceedings.

11) The Honble supreme court of India Brijesh kumar Vs State of Haryana reported in AIR.2014 supreme court page No.116 has held as follows, “In sec 5 of condonation of delay application the rules of Limitation or not to be meant destroy the rights of the party, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time. The courts should not adopt an injustice oriented approach in rejecting the application in condonation of delay. However, the courts while allowing such application has to draw a distinction between delay and inordinate delay for want of bonafide of an inaction or negligence would deprive a party.

12) As, for as this application is concerned IA.No. 3/2024 is left to dismiss for default due to the non payment of batta, since the suit was also left to dismiss for default. Now, after filing of this application the plaintiff filed applications to condone the delay and to restore the suit which was left to dismiss for default which were allowed by this court. It is the settled law "Sufficient cause" should be liberally construed so as to advance substantial justice. When, there is no inaction or no negligence or want of bonafide the delay ought to be condoned. As for as IA.No.3/2024 is concerned due to the non payment of batta only the same was dismissed for default.

13) Furthermore this court has made an observation in IA No. 846/2022 that there is chance for forgery of signature and recalled the award. So, considering the same and in the interest of justice in order to arrive a fair conclusion, whether there was any forgery played before the lok adalat an opporunity to be provided to both the parties inorder to arrive a fair conclusion. Hence, in this circumstances in the interest of justice and inorder to findout whether any foulplay was occurred during the time of passing the award the delay has to be condoned. So, this court is inclined to allow the application and the delay is hereby condoned.

In the result this petition is allowed. No cost.

Dictated to the Steno-Typist, typed by him directly into the computer, corrected, printed out and pronounced by me in the Open Court on this the **09th Day of March 2026.**

Additional Subordinate Judge,
Tiruppur.

I. Petitioner and Respondent's side Evidences and Documents : Nil

Additional Subordinate Judge,
Tiruppur.

Fair/Draft Order in

I.A.No. 4/2025

O.S. No. 102/2017

Dated : 09.03.2026

ASJ Court, Tiruppur.
