

IN THE COURT OF THE SUB JUDGE, NEYYATTINKARA.

Present: Smt. Parvathi. S.R., Sub Judge.

Tuesday the 01st day of August, 2023
10th day of Sravana, 1945.

I.A. 20/2022 in C.M.A. 22/2023

Appellants:

1. Christhudas Nadar, S/o. Abrayi Nadar,
Jayavilasom Bunglow, Kodankara,
Melemmakam, Chenkal village.
2. Jalal Raj, S/o. Krishthudas Nadar, Jayavilasom Bunglow,
Kodankara, Melemmakam, Chenkal village.

By Adv. Sri. C. Kamalasanan

Respondents:

1. Shaloman, S/o. Sheelas Nadar, Shalom Mandiram,
Melemmakam, Kodankara, Maryapuram. P.O.
2. Sheelas, S/o. Abrayi Nadar, Shalom Mandiram,
Melemmakam, Kodankara, Maryapuram. P.O.

By Adv: NIL

This petition having been finally heard on 01-08-2023 and the court on the same day passed following;

ORDER

The petition is filed by the petitioners who filed appeal against order in I.A. 4711/2018 in O.S. 994/2018 of the 2nd Additional Munsiff, Neyyattinkara to condone delay on 257 days in filing the appeal.

2. The petitioners contending that the above I.A. was dismissed on 22-02-2020. After getting certified copy of the order a lock down has been declared by the Central

Government on 25-03-2020 due to Covid pandemic.

3. After the second wave of covid pandemic the second plaintiff, who is the son of the first plaintiff met with an accident and suffered serious injuries on his leg. He was not able to sit or walk and was completely bed-ridden. It is the first plaintiff, who was taking care of the second plaintiff during the above period. Hence he could not contact the counsel to file appeal against the order in the above petition. Thus the delay of 257 days happened in filing the appeal after the lifting of lock down and the order of the Hon'ble High Court exempting limitation in connection with Covid 19 pandemic. There is no wilful default or negligence on the part of the petitioners in causing delay in filing the appeal. Hence the delay is to be condoned. Otherwise it will cause irreparable loss and injury to the petitioners.

4. The respondent filed objection contending that the order in I.A. 4711/2018 was passed on 22-02-2020. Central Government has declared lock down only on 25-03-2020. No document has been produced to show that 2nd plaintiff had met with an accident. There is no sufficient reason to condone the delay and the petition is liable to be dismissed.

5. Heard both sides. The order in I.A. 14/2018 was passed by the 2nd Additional Munsiff's Court, Neyyattinkara on 22-02-2020. It is true that thereafter the Central Government has declared complete lock down in connection with Covid pandemic disease and the Hon'ble Apex Court had passed an order extending limitation period. The petitioners are contending that there is delay of 257 days in filing the appeal excluding lock down period and the period exempted by the Hon'ble Apex Court. He is contending that thereafter the second plaintiff, the son of the first plaintiff met with an accident and suffered serious injuries to his leg and was completely laid up. It is also contended that it is the first plaintiff, who had to take care of the 2nd plaintiff during the above period and hence he could not contact the counsel to file appeal within time. It is true that no medical records were produced by the petitioners. But there is nothing to disbelieve the above contention of the petitioners. Thus the

petitioners have sufficiently explained the delay in filing the appeal. Hence the petition can be allowed. The grievance happened to the respondent can be compensated through payment of costs.

In the result, I.A. is allowed on payment of cost of Rs. 1,000/- to the respondent within a period of 15 days.

*(Dictated tot the C.A., transcribed and typed by her, corrected and pronounced by me, in open court, on this
the 1st day of August, 2023)*

Sd/-
Parvathi. S.R.,
Sub Judge.

APPENDIX: NIL.

Id/-
Sub Judge.

//True copy//

Sub Judge

Typed by: VP
Comp. by: Bindhu. P.R.

**COPY OF JUDGMENT
IN I.A. No. 20/2022
IN CMA No. 22/2023.
Dtd: 01-08-2023.**