



CMP NO. 23390 of 2025
AND AS SR NO. 151275 OF 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CMP NO. 23390 of 2025

AND

AS SR NO. 151275 OF 2025

KIRUBASANKARI

W/o Sivakumar, Res at No.32, Vanoli Street,
Kaaterikuppam, Puducherry 605 502

Appellant(s)

Vs

VIJAYA

W/o N.Nagarajan, Res at Door No.19, 2nd Cross
Street, Ajees Nagar, Reddiarpalayam, Puducherry
605 010

Respondent(s)

AS SR NO. 151275 of 2025

KIRUBASANKARI

Appellant(s)

Vs

VIJAYA

Respondent(s)

CMP NO. 23390 of 2025



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For Appellant(s):

M/s. K. Harishankar
T.K. Bhaskar
mithreyi kasthurirangan
mithun prakash
r.shriram adhethyen
paranv r

For Respondent(s):

M/s.V.V.Sairam-ms/108/1974

V.Selvaraj For Sole Respondent

AS SR NO. 151275 of 2025

For Appellant(s):

K. Harishankar

For Respondent(s):

ORDER

This petition is filed to condone the delay of 94 days in filing the present appeal

Dr. No.151275 of 2025.

2. Heard Mr.K. Harishankar, learned counsel for the petitioner and

Mr. G. Premkumar, learned counsel for the respondent. I find from the affidavit that the delay

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in filing the appeal is 94 days. According to the learned counsel for the petitioner, the petitioner's husband was taking care of the matter and he had to undergo knee replacement surgery and hence could not follow the matter. In fact, he would also bring it to my notice that it was only the petitioner's husband who entered into the witness box and gave evidence. He therefore states that the delay has been sufficiently explained and serious prejudice would be caused to the petitioner, if the appeal is not permitted to be prosecuted on merits, especially, considering the decree has now been put to execution and the respondent is pressing for orders of attachment in the execution petition.

3. Per contra Mr. G. Premkumar, learned counsel for the respondent objects to the delay being condoned by stating that the delay is not 94 days, but much more and the affidavit does not disclose the correct facts. He would further states that as on date more than Rs.22,00,000/- is due under the decree.

4. I have gone through the affidavit filed in support of the application. I have also carefully considered the submissions advanced on either side.



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5. *The suit for specific performance filed by the respondent has been dismissed. However, the alternative relief of refund of advance has been ordered and the same has been put to execution seeking refund of money which has been paid by the respondent / plaintiff allegedly to the appellant / defendant. Admittedly, delay is only 94 days. The Registry has verified the delay and thereafter numbered the application. The learned counsel for the respondent is unable to substantiate on what basis, according to the learned counsel for the respondent, delay is more than 94 days. In any event, the delay is not inordinate and there is no willful or deliberate inaction on the part of the petitioner / appellant to non-suit the petitioner in the Section 5 application. In view of the above, delay is condoned.*

6. *Appeal may be admitted and posted before the Deputy Registrar for admission. If papers are otherwise in order, thereafter, the CMP may be listed before this Court.*

24.11.2025

mtl



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P.B.BALAJI.,J

mtl

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