



WEB COPY



C.M.P.No.27411 of 2025
in
A.S.SR.No.171739 of 2025

P.B.BALAJI, J.

Heard learned counsel for the petitioner and the learned counsel for the respondents.

2. The learned counsel for the petitioner states that the petitioner has sufficiently explained the delay. Since the suit is filed for partition, in which the preliminary decree passed in favour of the 1st respondent is challenged and the parties are close relatives, a fair opportunity may be given to the petitioner to contest the preliminary decree on merits.

3. The learned counsel for the respondents would, however, state that the petitioner has not made out any sufficient cause and has not approached the Court with clean hands, and thereby he does not become entitled to the discretionary relief of the order of condonation of delay.

4. I do not find any serious objections to the delay being condoned even in the counter affidavit, which does not touch upon the merits of the appeal grounds. At Paragraph 4 of the affidavit filed in support of this writ



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petition, it has been stated that the delay in preferring the appeal was only on account of the ill health of the 1st appellant and the educational commitments of the 2nd appellant and thereby, financial constraints in mobilizing the Court Fee and also genuine attempts to amicably settle the matter.

5. Hence, I do not find the delay to be willful or *mala fide* so as to disentitle the petitioner from the discretion to be exercised in favour of condonation of delay.

6. Accordingly, the civil miscellaneous petition is ordered.

18.02.2026

Jeni

Note: Registry is directed to number appeal, if it is otherwise in order and list for admission before the Joint Registrar, Appellate Side.

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