



WEB COPY

CMP No. 30345 of 2025
SA Sr No.175711 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CMP No. 30345 of 2025 and
SA Sr No.175711 of 2025**

K.Vijayakumar, S/o. A.Kesavan,
134-A, 20, May Flower Annapurna Apartments,
4th Street, K.K.Pudhur, Sai Baba Colony,
Coimbatore-38.

..Appellant(s)

Vs

M.Subramani, S/o. Mallan,
1/219, Aaruva Hasati, Kattapottu Post,
Kothagiri Taluk, Nilgiris District.

..Respondent(s)

Prayer in CMP No.30345 of 2025: This civil miscellaneous petition is filed to condone the delay of 1007 days in filing the second appeal against the Judgment and Decree dated 22.08.2022 passed by the District Court, Nilgiris in A.S No. 22 of 2017, confirming the Judgment and Decree passed by the Sub Ordinate Court, Udhagamandalam in OS No. 149 of 2011 dated 02.09.2016.

Prayer in SA Sr No.175711 of 2025: Second Appeal is filed under Section 100 of CPC to set aside the Judgment and Decree dated 22.08.2022 passed by the District Court, Nilgiris in A.S No. 22 of 2017, confirming the Judgment and Decree passed by the Sub Ordinate Court, Udhagamandalam in OS No. 149 of 2011 dated 02.09.2016.

For Petitioners/
Appellant(s):

Mr. T.Venugopal
for Mr. A.Mohamed Ismail

For Respondent(s):

Ms.Deekshitha



COMMON ORDER

WEB COPY This civil miscellaneous petition has been filed seeking to condone the delay of 1007 days delay in filing the second appeal.

2. In the affidavit filed in support of the petition, it is stated by the petitioner that the judgment and decree of the first appellate court was made ready on 28.10.2022, however, in the decree copy furnished to him, page No.2 was missing. Therefore, he requested his counsel, who appeared before the trial court to file a fresh copy application and obtain a new certified copy of the decree for the purpose of filing second appeal. It is also stated in the affidavit that in the interregnum period case bundle has been misplaced and it was traced out only recently. On these reasonings, the petitioner seeks condone the delay of 1007 days in filing the second appeal.

3. It is seen from the typed set of papers that certified copy of the judgment of the first appellate court was received by the petitioner on 28.10.2022. However, the copy application for obtaining the certified copy of the decree of the first appellate court as well as the judgment and decree of the trial court was filed only on 16.09.2025 and the same were received by him on 23.09.2025. If the second page of the decree of the first appellate court was found missing, the petitioner should have filed a copy application immediately



to obtain a new certified copy of the decree. Absolutely, there is no justification for the petitioner to wait for three years and then file a copy application for a fresh certified copy of the decree in the year 2025. The reasons assigned by the petitioner cannot be accepted for condoning such a long delay of 1007 days in filing the second appeal.

4. Further, in the affidavit, it is stated by the petitioner that the case bundle was misplaced in the office of the counsel and the same was traced out only recently. However, the condone delay petition has not been supported by the affidavit of the Advocate or the Advocate clerk. In such circumstances, the affidavit filed by the petitioner regarding misplacement of the bundle in the advocate's office cannot be accepted. The petitioner has given very vague reasons for condoning the inordinate delay of 1007 days and this court is not convinced with the reasons assigned by the petitioner in the affidavit. Since the petitioner has not made out sufficient cause to condone such inordinate delay, this court is not inclined to entertain this petition.

5. Accordingly, this civil miscellaneous petition is dismissed. As a consequence, the second appeal is rejected in the SR stage itself. There shall be no order as to costs.

21-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
MST



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To

1. The District Judge, the Nilgiris.
2. The Subordinate Judge, Udhagamandalam.



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S.SOUNTHAR, J.

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