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FRIDAY, THE 13TH DAY OF NOVEMBER 2026

CM.Appl 1/2026 IN RP No. 1053 of 2026

USHA

VS

GEETHA, (DIED)

ADVS FOR REVIEW PETITIONER/S:
SMT.R.RANJANIE, SHRI.NEVIL ZACHARIA MATHEW, SMT.VAISHNAVI SHAJI

ADVS FOR RESPONDENT/S:
SRI.C.Y.VINOD KUMAR

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C.S.DIAS,J.

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C.M. Appl.No.1 of 2026
in
R.P. No.1053 of 2026
in
R.S.A. No. 716 of 2010

- -

Dated this the 13th day of November, 2026

ORDER

The application is filed to condone the delay of 2450 days in filing the review petition.

2. The first applicant has filed an affidavit in support of the application stating that the original plaintiff (the predecessor in interest of respondents 1 to 4) had filed a suit before the Court of the Additional Munsiff - III, Thiruvananthapuram ('Trial Court'), seeking a decree that the purchase certificate will not bind the plaintiff, for putting up the boundary on the

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western side of plaint A schedule property, separating the property from the property of the defendants with barbed wire fencing and other consequential reliefs. The Trial Court decreed the suit as prayed for on 16.02.2005. Though the defendants had preferred an appeal before the District Court, Thiruvananthapuram ('Appellate Court'), the same was dismissed. The concurrent judgments and decrees of the Trial Court and the Appellate Court were confirmed by this Court in RSA No.716/2010 as per the judgment dated 14.11.2019. After that, the original plaintiff filed an execution petition to enforce the decree. It was at this juncture that the applicants, to their utter shock, found that the decree was vitiated on account of fraud perpetrated by the original plaintiff. The records revealed that the plaint schedule property devolved

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upon the owner by virtue of a purchase certificate issued by the Mutttathara Village Office. On further enquiry, it was learnt that the said document is fabricated and that the Village Officer has no power to issue the LA patta under the Land Assignment Rules. Moreover, the property is situated in a puramboke land. Accordingly, the applicants applied for and obtained a copy of the settlement register from the Revenue Department on 26.12.2024. On receipt of the said document, the applicants filed applications before the Execution Court to implead the District Collector, Thiruvananthapuram, as an additional party in the execution proceedings, to declare the decree a nullity, and to keep the execution proceedings in abeyance till the disposal of the applications. Unfortunately, the Execution Court dismissed all the applications.

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Challenging the said order, the applicants filed O.P. (C) No. 1835/2026 before this Court. However, this Court, by judgment dated 10.07.2026, dismissed the original petition, but left open the liberty of the petitioners to seek appropriate relief by filing a review petition in the second appeal. Accordingly, the present review petition is filed with a delay of 2450 days. There is no wilful laches on the part of the applicants in not preferring the review petition in time. The application may be allowed, and the delay may be condoned, failing which it would cause grave injustice to the applicants.

3. The respondents 2 and 3 have filed a counter affidavit, contending, inter alia, that the applicants are attempting to reopen the dispute that has already been settled by the competent civil courts. The applicants are

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attempting to convert the limited jurisdiction of review into an appellate jurisdiction to reconsider the entire dispute. The parties' rights have been adjudicated after a full-fledged trial. The judgment sought to be reviewed was pronounced on 14.11.2019, whereas the review petition has been filed only on 18.08.2026, after an unexplained lapse of several years. The applicants have not produced any explanation for the enormous delay in approaching this Court. Even as per the applicants' case, the settlement register was found on 26.12.2024. Thereafter, the applicants have initiated proceedings before the Execution Court and filed an original petition before this Court. The settlement register does not bear the signature, seal or authentication of the competent authority. Nothing on the face of the document establishes that it is an official

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register maintained by the concerned authority. The applicants have also not disclosed the source from which they obtained the copy of the register. The applicants have not disclosed the dates on which they approached the revenue authority and submitted the applications to obtain the revenue records. The applicants have not pleaded sufficient cause to condone the inordinate delay in filing the review petition. The application is meritless and may be dismissed.

4. The 6th respondent has filed a counter affidavit on behalf of herself and the respondents 4 and 5, contending, inter alia, that there is no error apparent on the face of the judgment in the second appeal. The applicants are attempting to project an entirely new case in the review petition, which was never pleaded, raised, or considered before the Trial Court, the First

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Appellate Court, and this Court. The power of review is very limited. A review cannot be treated as an appeal in disguise. The applicants cannot be permitted to reopen the entire litigation by introducing fresh pleadings, fresh documents and fresh evidence. There is an extraordinary delay of more than five years and ten months. No sufficient, reasonable or satisfactory explanation has been established. The review petitioners had appeared in E.P. No. 209/2020 and filed objections to the execution proceedings. They also filed several applications and objections obstructing and delaying the execution of the decree. The respondent was constrained to seek police protection to enforce the decree. The suit was decreed in the year 2005. Even after the lapse of 21 years, the decree holder has not been able to enjoy the fruits of the decree. The

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application is devoid of any merit and is liable to be dismissed.

5. The 1st applicant has filed a reply affidavit denying the allegations in the counter affidavit filed by the 6th respondent. She has reiterated that she has satisfactorily explained the delay. The review petition has been filed pursuant to the liberty granted by this Court. The original plaintiff has perpetrated fraud on the Court, which vitiates the decree. The judgments relied on by the respondent in the counter affidavit are not applicable to the facts of the case. The respondent has not specifically controverted the applicants' contention that the decree was obtained by fraud. Therefore, the delay petition may be allowed.

6. I have heard Sri. R. Lakshmi Narayan, the learned Senior Counsel appearing for the applicants,

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Sri. C.Y.Vinod Kumar, the learned counsel appearing for the respondents 2 and 3 and Sri.S.Balachandran, the learned counsel appearing for the respondents 4 to 6.

7. The point is whether the applicants have made out sufficient cause to condone the delay of 2450 days in filing the review petition.

8. The averments in the affidavit filed in support of the delay petition reveal that the suit was decreed as early as on 16.02.2005 and the judgment and decree were confirmed by the First Appellate Court on 14.01.2010 and by this Court on 14.11.2019.

9. It is the applicants' case that it is only when the decree was put to execution that they came to learn that a fraud has been perpetrated on the court. The day on which they came to learn about the judgment and decree has not been specifically stated in the

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affidavit in support of the application. It is their case that, upon learning of the judgment passed by this Court on 14.11.2019, they made enquiries and came to learn that the purchase certificate was issued by the Village Officer, who is an incompetent authority. Accordingly, they got a copy of the settlement register on 26.12.2024. Therefore, at least from that date, the applicants learnt about the issuance of the fabricated purchase certificate. Yet, the applicants did not file the review petition. Instead, they filed applications before the Execution Court to implead the District Collector as an additional party in the execution petition, declare the decree a nullity, and keep all execution proceedings in abeyance till a final decision is taken in the matter. After that, they filed O.P(C) No.1835/2026 before this Court challenging the orders passed by the Execution

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Court. Only after this Court dismissed the original petition was the present review petition filed, along with this application, on 18.08.2026.

10. A Three-Judge Bench of the Supreme Court, in **University of Delhi v. Union of India and Others** [2019 KHC 7261 (SC)], has held as follows:

> "20.....Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. **In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation....."**

11. In **Pandlik Talam Patil v. Talgaou Medium Project** [(2008) 17 SCC 448], the Supreme Court observed as follows:

> "17. .....The evidence on record suggests neglect of its own right for long time in preferring appeals. **The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.**

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29. It needs no restatement at our hands that the object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. **They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy."**

12. In **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai** [(2012) 5 SCC 157], the Supreme Court held as follows:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. **If on the other hand, the explanation given by the application is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay".**

13. The aforesaid principles have been reiterated by the Supreme Court in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and Others** [(2013) 12 SCC 649], wherein it was held as follows:

"21.8(viii) **There is a distinction between inordinate delay and a delay of short duration of few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not**

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be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation."

14. The principles emerging from the above decisions may be summarised thus: the length of the delay is not, by itself, decisive, but it is a relevant consideration; the applicant must place before the Court a bona fide and satisfactory explanation covering the material period of delay; and, in cases of inordinate delay, the explanation warrants closer scrutiny. The Court must also balance the explanation offered against the rights that have accrued to the opposite party and the prejudice that may result from reopening concluded

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proceedings. A liberal approach cannot dispense with the statutory requirement of showing sufficient cause, nor can it legitimise unexplained inaction.

15. Applying the above principles to the facts of the present case, it is evident that the applicants seek review of a judgment pronounced by this Court on 14.11.2019, but have filed the review petition only on 18.08.2026, with a delay of 2450 days. Such delay cannot be condoned on a general assertion that the applicants acted upon discovering an alleged fraud. The applicants are required to furnish a clear, cogent and chronological account explaining not merely when the alleged new material came to their notice, but also the steps taken thereafter and the time reasonably required to institute the review proceedings.

16. The applicants have not precisely stated the

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date on which they first became aware of the alleged defect in the purchase certificate or the circumstances in which that knowledge was acquired. Even accepting their case that they obtained a copy of the settlement register on 26.12.2024, that date does not explain the further lapse of time before the review petition was filed on 18.08.2026. No particulars have been furnished as to the dates on which they approached the Revenue authorities, the applications made by them, the time taken by the authorities to furnish the record, or any other circumstance that prevented them from approaching this Court within reasonable time. The explanation, therefore, leaves a substantial and material part of the delay unaccounted.

17. The applicants' decision to pursue remedies before the Execution Court and thereafter before this

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Court in O.P.(C) No.1835/2026 is a circumstance to be taken into account; however, it does not, by itself, constitute an explanation for the entire period of delay. The proceedings before the Execution Court were initiated after the applicants claim to have obtained the settlement register. The applicants have not shown why the review petition could not have been presented within a reasonable time, while pursuing those proceedings, or why they had to await the outcome of the original petition before invoking the review jurisdiction. The liberty granted by this Court in the judgment dated 10.07.2026, to seek appropriate relief by filing a review petition, cannot be construed as a direction to condone the delay, nor does it dispense with the applicants' obligation to establish sufficient cause for the delay. The question of limitation has to be

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considered independently on the explanation and materials placed before this Court.

18. It is also material that, according to the counter affidavit of the sixth respondent, the applicants had entered appearance in E.P. No.209/2020 and filed objections in the execution proceedings. This circumstance indicates that the applicants were aware of the enforcement of the decree and had an opportunity to take appropriate legal steps. Their participation in the execution proceedings, followed by the subsequent proceedings before the Execution Court and this Court, does not explain why the review jurisdiction was not invoked with due diligence. The applicants have not furnished a satisfactory account of their conduct during the intervening period. The mere assertion that the decree was obtained by fraud,

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however serious the allegation may be, cannot automatically establish sufficient cause for condoning an inordinate delay. The allegation of fraud, its truth and its legal effect are matters to be examined in the appropriate proceedings; they cannot be presumed in deciding this application for condonation of delay.

19. The respondents, on the other hand, point out that the decree has remained under litigation since the institution of the suit in 2002 and that, despite the concurrent decrees and the confirmation of those decrees by this Court in 2019, the decree-holder has not been able to enjoy the fruits of the decree. The applicants dispute the respondents' allegations, but the fact remains that the decree has attained finality through the hierarchy of civil courts and the rights of the respondents have crystalised. Reopening the

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concluded proceedings after such a long interval would necessarily expose the respondents to further litigation and prolong the uncertainty surrounding the decree, which would prejudice the respondents.

20. The Court is conscious that procedural rules are intended to advance the cause of justice and that a litigant should not be non-suited merely on account of a technical lapse where a bona fide and sufficient explanation is forthcoming. Equally, the discretion to condone delay is judicial and not unregulated. It must be exercised on a reasoned assessment of the explanation, the conduct of the applicant and the prejudice to the opposite party.

21. In the present case, the applicants have not explained the material periods of inaction, particularly the time that elapsed even after they claim to have

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obtained the settlement register. Their explanation is thus neither complete nor satisfactory. The seriousness of the allegation sought to be raised in the proposed review cannot substitute for the statutory requirement of establishing sufficient cause.

For the foregoing reasons, I am not satisfied that the applicants have made out sufficient cause to condone the delay of 2450 days in filing the review petition. The application is meritless and is accordingly dismissed.

Sd/-
C.S.DIAS, JUDGE

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