



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No. 3564 of 2026
and CMP.No.15536 of 2026**

1. Arokyasamy
S/o. Late. Chinnappan

2. Aruljothi
S/o.Late Chinnappan

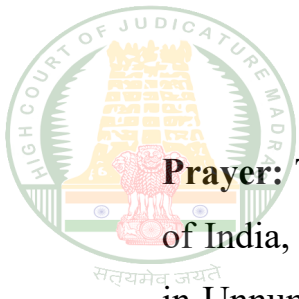
Both are residing at
Maranodai Village
Thirunavalur Post
Ulundurpet Taluk
Villupuram Dist.

..Petitioners

Vs

1. Nambikkai Mary
D/o. Antony Cruse
W/o. Sundarrajan
No. A27, Radhakrishnan Salai
TNHB Kazhpurampakkam
Villupuram Dist.
Chinnammal (Died)
2. Kanikkai Mary
D/o. Antony Cruse, W/o. Gabriel
Sithanangur Village and Post
Thiruvennainallur Taluk,Villupuram Dist.
3. Nayagan
S/o. Antony Cruse
Maranodai Village, Thirunavalur Post
Ulundurpet Taluk, Kallakurichi Dist. 607 204
4. Gabriel
S/o. Antony Cruse
Maranodai Village,Thirunavalur Post,
Ulundurpet Taluk Kallakurichi Dist. 607 204

..Respondent(s)



Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order in I.A. No. 93 / 2023 in Unnumbered AS No. /2023 dt. 16.12.2025 passed by the Learned Principal Subordinate Judge at Villupuram.

For Petitioners: Mr.C.Samivel

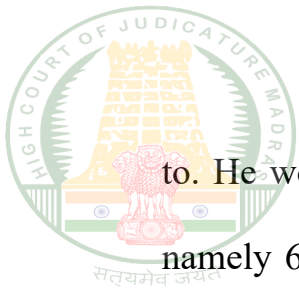
For Respondent(s): Mr.P.S.Ganesh

ORDER

The appellants, aggrieved by the dismissal of IA.No.93 of 2023 seeking condonation of a delay of 6819 days, are the revision petitioners herein, challenging the order passed by the learned Principal Subordinate Court, Villupuram.

2. Heard Mr.C.Samivel counsel for the petitioners and Mr.P.S. Ganesh, learned counsel for the respondents.

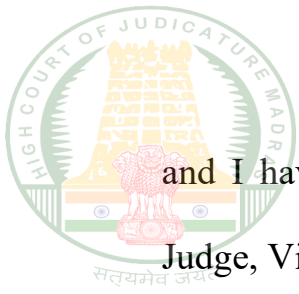
3. Mr.C.Samivel, learned counsel for the petitioners would contend that the suit for partition was filed initially against the petitioners' father Chinnappan, suppressing the fact that a partition had already been taken place in the year 1992. Though the father of the petitioners contested the suit, he died pending the suit and there was no proper opportunity for the petitioners to canvass their case regarding the oral partition that had already been given effect



to. He would therefore state that the delay, though appearing to be inordinate, namely 6819 days, should be condoned so that the petitioners will have a fair opportunity to prove that the properties had already been partitioned and that the judgement and decree of the Trial Court will have to be necessarily set aside. Taking me through the affidavit filed in support of the condone delay application, Mr.C.Samivel, would also contend that the petitioners have made out sufficient cause and that the fraudulent acts of the respondents/plaintiffs should not be condoned. He would therefore pray that the revision be allowed.

4. Per contra, Mr.P.S.Ganesh, learned counsel appearing for the respondents, would firstly state that the father of the petitioners contested the suit but failed to establish any oral partition, much less a partition having been given effect to and the defence of the father of the petitioners was considered by the Trial Court before proceeding to decree the suit for partition. The learned counsel would also bring to my notice that, after the decree, the father of the petitioners was also alive for a reasonable length of time, but he never chose to question the preliminary decree. That apart, it is the further submission of the learned counsel for the respondents that the final decree itself was passed in January 2008 and the Execution Petition also came to be terminated on 15.07.2025. He would, therefore, pray for the dismissal of the revision petition.

5. I have carefully considered the submissions advanced on either side



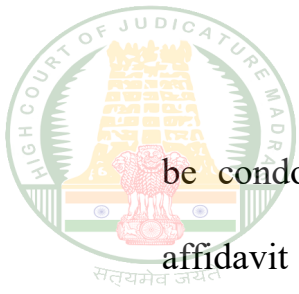
and I have also gone through the order of the learned Principal Subordinate Judge, Villupuram, refusing to condone the delay.

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6. Admittedly, the suit was filed against the father of the present revision petitioners, citing them as the defendants in the suit for partition. The suit was contested, and a preliminary decree came to be passed after contest in OS.No.70 of 2003. A final decree application was also filed in IA.No.925 of 2006. Pending the said final decree application alone, the father of the petitioners Chinnappan, died on 17.06.2010.

7. There is absolutely no reasons assigned as to why the father of the petitioners did not choose to challenge the preliminary decree passed in OS.No.70 of 2003, despite the final decree application also having been taken out in IA.No.925 of 2006. The father of the petitioners was alive until 17.06.2010, a good four years after the filing of the final decree application and when the father of the petitioners himself did not choose to challenge the preliminary decree, while placing reliance on the alleged partition said to have taken place in September 1992 between himself and his brother, namely, the father of the respondents, I am unable to see how a better case can now be set up by the legal heirs of the defendant, namely, the revision petitioners herein.

8. Further, the delay is inordinate and it is 6819 days which is sought to



be condoned. Absolutely no justifiable reasons have been assigned in the affidavit in support of the application covering the said period of 6819 days.

The Trial Court has rightly found that sufficient cause has not been made out for condoning such inordinate delay.

9. Further, as brought to my notice by the learned counsel for the respondents, the respondents/plaintiffs, who sought for partition, have already been put in possession of their respective shares pursuant to the final decree passed and the execution petition itself has been terminated. In such a view of the matter, I do not see any reason for permitting the petitioners to contest the preliminary decree at this stage. If, at all, the petitioners have any independent rights in the suit property, it is for them to agitate the same in a manner known to law.

10. I do not find any infirmity or perversity in the findings of the Trial Court warranting interference in the revision. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15-07-2026

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

MPA



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P.B.BALAJI, J.

MPA

To
The Principal Subordinate Judge, Villupuram.
2. The Section Officer, VR Section, High Court, Madras.

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