



WEB COPY



CRP No. 2957 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**CRP No. 2957 of 2023
and CMP No.18260 of 2023**

1. Mathaiyan (Died) 1.Ambika
W/o.Mathaiyan Uparahalli (Vill),
Amanimalapuram (Po), Palacode (TK),
Dharmapuri Dist. and another

2.Ambika
W/O. Mathaiyan, Uparahalli (Vill),
Amanimalapuram (PO), Palacode (TK),
Dharmapuri District.

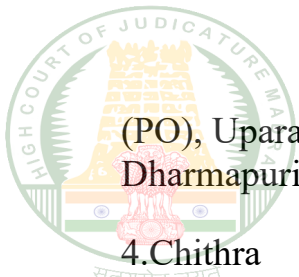
Petitioner(s)

Vs

1. R. Venkatagalam (Died) 1.Ganeshan
S/o.Late Venkatagalam, A.Malapuram(Po),
Uparahalli (Vill), Palacode (TK),
Dharmapuri Dist.

2.Ramachandran
S/O. Late Venkatagalam, A.Malapuram
(PO), Uparahalli (Vill), Palacode (TK),
Dharmapuri District.

3.Shanthi
D/O. Late Venkatagalam, A.Malapuram



(PO), Uparahalli (Vill), Palacode (TK),
Dharmapuri District.

4.Chithra

D/O. Late Venkatagalam, A.Malapuram
(PO), Uparahalli (Vill), Palacode (TK),
Dharmapuri District.

Respondent(s)

Civil Revision Petition filed under Section 115 of Civil Procedure Code against the fair and decretal order of District Munsif Court, Palacode dated 21.02.2023 made in I.A.No.2 of 2022 in O.S.No.109 of 2014 .

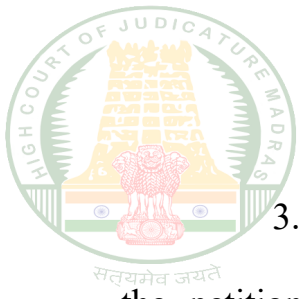
For Petitioner(s): P.M.Jayachandran

For Respondent(s): M/s.R.Selvakumar

ORDER

Heard Mr.P.M.Jayachandran, the learned counsel for the petitioner and Mr.R.Selvakumar, the learned counsel for the respondents.

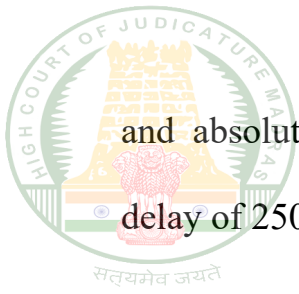
2. The petitioner is the second defendant in O.S.No.109 of 2014 on the file of District Munsif Court, Palacode. The respondents filed a suit for declaration and consequential reliefs. The defendants including the petitioner's husband one Mathaiyan were set exparte and the suit came to be decreed on 21.07.2015. The petition to set aside the exparte decree was filed along with an application to condone the delay invoking Section 5 of the Limitation Act. The delay sought to be condoned was 2505 days.



3. The case of the petitioner before the trial Court in I.A.No.2 of 2022 was that the petitioner's husband was suffering from chronic liver disease and hence the petitioner could not attend the proceedings before the trial Court. She additionally contended that she had to take care of her ill husband and therefore, she is also incapacitated from attending the suit proceedings.

4. The learned counsel also invited my attention to the medical certificates filed along with the typed set of papers in the present revision which are Scans taken in the years 2021 and 2022. Learned counsel would therefore state that a fair opportunity may be given to the petitioner, especially since her husband/1st defendant also passed away in the interregnum period and has valuable rights in the immovable properties are involved in the suit and the suit can be disposed of on merits after giving a fair opportunity to the petitioner to contest the suit.

5. Per contra, learned counsel for the respondents/plaintiffs would firstly object to the reliance placed on the medical certificates before this Court, contending that the said documents were not filed along with the application for condonation of delay. He would in any event contend that the husband himself was very much alive for more than six years after the exparte decree and no steps were taken for all these years



and absolutely no satisfactory reasons have been adduced explaining the inordinate delay of 2505 days and therefore prays for dismissal of the revision.

WEB COPY

6. I have considered the submissions made by the learned counsel on either side and have also gone through the affidavit filed in support of the application, seeking condonation of delay, the counter filed thereto as well as the order passed by the trial Court.

7. The petitioner took out the application to set aside the exparte decree after the demise of her husband on 28.02.2021 in I.A.No.2 of 2022. Admittedly, suit came to be decreed on 21.07.2015. It is not as if the petitioner and her husband were not served with summons in the suit and have no knowledge about the proceedings. They were in fact served with summons and they had also engaged a counsel to represent them and only after giving long rope and finding that even written statement has not been filed, the defendants were set exparte and suit was subsequently decreed on 21.07.2015. The trial court has also rightly found that the delay of 2505 days has not been sufficiently and satisfactorily explained by the petitioner. The reliance placed on the additional documents before this Court also do not in manner explain the delay right from 2015 July onwards, when the exparte decree came to be passed, especially considering that the petitioner was represented by a counsel before the trial Court.



8. In the light of the above, I do not see any grounds to interfere with the discretion exercised by the trial Court in dismissing the condone delay application.

9. In the result, there is no merits in the revision and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2026

sr
Index:yes/no
Website:yes/no
Speaking Order/Non-Speaking Order

To

The District Munsif Court, Palacode



WEB COPY



P.B.BALAJI, J

sr

CRP No. 2957 of 2023

07.07.2026