



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:21.07.2026

Pronounced on:24.07.2026

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CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI**CRP. No.3978 of 2026
and CMP. No.17403 of 2026**

- 1.Govindasamy
- 2.Madhammal
- 3.Chinraj
- 4.Sundarammal

..Petitioner(s)

Vs

Rajeshwari

..Respondent(s)

PRAYER: This Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code, 1908, to set aside the fair and decreetal order of the Additional Sub Judge, Dharmapuri District, dated 25.03.2025 made in I.A. No.501 of 2019 in O.S. No.286 of 2014.

For Petitioner(s): Mr.P.M.Jayachandran

For Respondent(s): Mr.K.Venkateswaran



ORDER

The defendants 1, 2, 6 and 9 are the revision petitioners. Challenging the dismissal of the Application filed by them in I.A. No.501 of 2019, seeking condonation of delay of 967 days, invoking Section 5 of the Limitation Act, 1963 in seeking to set aside the exparte decree in O.S. No.286 of 2014, the present revision is filed.

2. I have heard Mr.P.M.Jayachandran, learned counsel for the petitioners and Mr.K.Venkateswaran , learned counsel for the respondent.

3. The learned counsel for the petitioners would state that though the delay of 967 days appears to be inordinate, the petitioners had already reached a settlement with the plaintiff, who is none else than their own sister, who had assured in the presence of relatives and village elders that she would withdraw the partition suit. According to the learned counsel for the petitioners, trusting the sister of the petitioners, the petitioners did not pursue the matter and they were under the bonafide impression that their sister would honour her words and withdraw the suit.

4. Further according to the learned counsel for the petitioners, behind the back of the petitioners, the respondent has proceeded to obtain a decree and has also filed a final decree application and only then, the petitioners came to know that the respondent had obtained an exparte decree behind their back. He would therefore state that admittedly, when there is a partition already effected, no



further suit for partition could be maintained and the respondent cannot be allowed to take advantage of her own wrong, by breaching the trust placed by the petitioners in the respondent, having assured to withdraw the suit.

5. Per contra, the learned counsel for the respondent Mr.K.Venkateswaran, would state that the petitioners had engaged a Counsel to represent them in the suit for partition and therefore, they cannot feign ignorance of passing of the preliminary decree. He would further state that though the suit was filed in the year 2014 and the preliminary decree was passed only on 06.04.2016 and thereafter, final decree application was also filed in the year 2025. The learned counsel would therefore states that the petitioners cannot casually seek condonation of an inordinate delay of 967 days and rightly, the Trial Court has dismissed the said delay application. He would therefore pray for dismissal of the revision petition.

6. I have carefully considered the submissions advanced by the learned counsel on either side.

7. Firstly, the case of the petitioners that after receipt of the notice, noticing the suit for partition, the respondent had assured to withdraw the suit and therefore, they did not follow up the matter itself, appears to be unacceptable on the face of it. If really because of the trust, the petitioners had placed in their sister, the respondent/plaintiff did not follow up the suit, the petitioners ought not to have even engaged a Counsel to represent them in the suit for partition. The suit was admittedly pending for close to two years before



the preliminary decree came to be passed. Therefore, the petitioners having received summons and engaged a learned counsel had a bounden duty to diligently follow up the matter with their Counsel and now, they cannot try to turn the table on the respondent/plaintiff, as if the respondent/plaintiff had agreed to withdraw the suit and did not do so. This can never be a reason to explain and show sufficient case. The Trial Court has also found that no material has been placed by the petitioners that the respondent undertook to withdraw the suit and also found that the delay has not been sufficiently explained. If really according to the petitioners, the plaintiff had undertaken to withdraw the suit and that it was in the presence of the Panchayatdars, nothing prevented the petitioners from atleast examining them to justify their contentions. This has also not been done.

8. In such circumstances, I do not find any perversity or infirmity in the findings reached by the Trial Court, warranting interference and there is no merit in this revision petition. This Civil Revision Petition is **dismissed.** Consequently, connected Miscellaneous Petition is also dismissed. No costs.

24-07-2026

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

To
The Additional Sub Judge, Dharmapuri.



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P.B.BALAJI, J.

RKP

Pre-delivery Order in
CRP. No.3978 of 2026
and **CMP. No.17403 of 2026**

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