



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2026

CORAM

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

**CRP No.1605 of 2023
& CMP.No.10480 of 2023**

1.T.Senathipathi
2.T.Deivathal

..Petitioner

Vs

1.C.Palanisamy
2.A.Thilagamani
3.A.Karthikeyan
4.A.Vidyanandi
5.K.Muthusamy
6.K.Moorthy
7.Duraisamy
8.Shanthi
9.T.Kuppusamy
10.Annadurai

..Respondent

Prayer: Civil Revision petition filed under Section 115 of CPC, to call for the records and set aside the decree and order dated 11.01.2023 in I.A.No.457 of 2021 in O.S.No.31 of 2013 on the file of the Principal District Munsif Court, Tiruppur.

For Petitioner(s): M/s.R.S.Maitreya

For Respondent(s): Mr.M.Sivavarthanana for RR1 to 4
No appearance for RR5, 6, 9 & 10
R7 & R8 not ready in notice.



ORDER

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This revision has been filed to set aside the decree and order dated 11.01.2023 in I.A.No.457 of 2021 in O.S.No.31 of 2013 on the file of the Principal District Munsif Court, Tiruppur.

2.Heard the learned counsel for the parties.

3.The petitioners are defendants in a suit for declaration of title and consequential permanent injunction. The petitioners were set ex-parte for non filing of written statement, despite having entered appearance in the suit, after receipt of summons. The suit came to be decreed in the presence of the other defendants, who did not seriously contest the suit. Claiming that the petitioners got to know of the decree, only when they received notice from the plaintiffs and thereafter, because of the Covid pandemic peaking, they were unable to immediately take out the application, the petitioners sought to condone the delay of 1105 days in taking out the application to set aside the ex-parte decree.

4.The learned counsel for the petitioners state that the medical condition of the 1st petitioner was also clearly established by production of medical records. However, he would state that the medical certificate has not been taken into account, since it did not contain any date and the Compact Disc has also



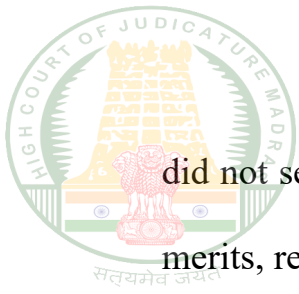
been discredited, on the ground that it was not accompanied by Section 65-B certificate as contemplated under the Indian Evidence Act. He would therefore

state that when bonafide reasons had been assigned and also backed by documentary evidence, the trial Court ought to have given an opportunity to the petitioners to contest the suit on merits, especially since their valuable rights in immovable property are concerned.

5.The learned counsel for the respondents would contend that there is absolutely no sufficient cause shown by the respondents and the trial Court has rightly dismissed the application and the same does not warrant interference in revision.

6.I have carefully considered the submissions advanced by the learned counsel on either side and I have also gone through the impugned order passed, refusing to condone the delay of 1105 days in taking out the application to set aside the ex-parte decree.

7.It is not in dispute that the petitioners were served with summons in the suit and they had also entered appearance by engaging a counsel of their own choice. The suit, however, came to be dismissed as early as on 31.01.2018 for non filing of written statement of the petitioners/defendants. Some of the other defendants had, in fact, filed their written statements, but however, since they



did not seriously contest the suit, the trial Court proceeded to decree the suit on merits, recording the factum of the petitioners/defendants remaining ex-parte.

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8. Thought it is contended by the learned counsel for the petitioner that they came to know of the ex-parte decree only after receipt of notice from the plaintiffs that the suit has been decreed ex-parte, as rightly contended by the learned counsel for the respondents and also observed by the trial Court, the petitioners proceeded to execute a settlement deed before the Sub Registrar in the year 2019. The same was complained of by the respondents 1 to 4 and in fact, proceedings were also taken before the Sub Registrar for cancellation of the said settlement deed, which according to the respondents, was created fraudulently, despite the decree passed by the competent Civil Court. Enquiry was conducted by the Sub Registrar and the settlement deed was also cancelled in December 2020. The petitioners admittedly participated in the enquiry proceedings. Therefore, it is not open to them to contend that because of the medical condition of the 1st petitioner and the age of the 2nd petitioner and also prevailing Covid pandemic at that point of time, they were not able to approach the Civil Court seeking to set aside the ex-parte decree in time.

9. In fact, the application for setting aside the ex-parte decree, along with condone delay application was in fact filed only in November 2021, one year long after the proceedings before the Sub Registrar were concluded, cancelling



the settlement deed executed by the petitioners. Thus, there is absolutely no justifiable or sufficient cause shown by the petitioners in not approaching the Court in time. In any event, having engaged a counsel, it was the duty of the petitioners to have followed up the matter with their counsel and given instructions for filing of written statement, which also has not been admittedly done. Today, it is not open to the petitioners to blame their counsel for not following up the matter and try to take advantage of the fact that they have remained ex-parte, only because of the petitioners' counsel not appearing to the Court. This casual attitude of the litigants blaming their counsel has been frowned upon by the Hon'ble Supreme Court as well as this Court. Accusing the counsel of negligence has become a fashion these days and it should not be encouraged. In the light of the above, I do not find any infirmity in the findings arrived at by the trial Court, warranting interference in revision.

10. In fine, the Civil Revision Petition is dismissed. No costs. Connected, Civil Miscellaneous Petition is closed.

17.07.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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P.B.BALAJI, J.

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To
The Principal District Munsif Court, Tiruppur.

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