



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.07.2026

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.(PD)(MD)Nos.507 of 2023 and 1190 of 2024

and

C.M.P.(MD)Nos.2441 of 2023 & 6780 of 2024

1.S.Daniel

2.S.Tharcis Sebasthiyar

... Petitioners in
both C.R.Ps.

Vs

1.K.Sekar

2.Konalai Kalpalayam Panchayat,
Rep. by its President, Konalai,
Kalpalayam Panchayat Office,
Manachanallur Taluk,
Tiruchirappalli District.

3. The Junior Engineer,
Operation and Maintance,
Tamilnadu Electricity Board,
Car Street, Samayapuram Post,
Tiruchirappalli District.

4. The Superintending Engineer,
Tamilnadu Electricity Board,
Mannarpuram, Trichy.

5. The Village Administrative Officer,
Konalai, Kalpalayam,
Mannachanallur Taluk, Tiruchirappalli District.



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

WEB COPY

6. The Tahsildar,
Taluk Office,
Mannachanallur.

7. The Revenue Divisional Officer,
Revenue Divisional Office, Lalgudi.

8. State of Tamilnadu,
Rep by the Collector of Tiruchirappali
District, District Collector Office,
Tiruchirappali-620 001.

... Respondents in
both C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 08-04-2022 and 17.06.2022 made in I.A.No. 837 of 2014 in O.S.No. 107 of 2010 on the file of the Additional District Munsif Court, Lalgudi and allow the above revision petitions.

For Petitioners
(In both C.R.Ps)

: Ms.K.Vidya

For Respondents

: Mr.T.Vadivelan for R1
Mr.B.Ramanathn for R3 & R4
Mr.L.Siva,
Govt. Advocate (Crl. Side)

COMMON ORDER

These Civil Revision Petitions are filed by the plaintiffs in the suit challenging the order allowing the application filed by the first



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

respondent/first defendant seeking to condone the delay of 367 days in filing the petition to set aside the the order passed by the trial Court accepting the memo filed by the first defendant's counsel along with e.challan for payment.

2. The petitioners herein filed a suit seeking declaration of title and for consequential relief of recovery of possession after removal superstructure. The said suit was decreed *ex parte* on 21.10.2011. Thereafter, the first respondent/first defendant filed an application to set aside the *ex parte* decree along with a petition to condone the delay of 367 days in seeking to set aside the *ex parte* decree. The said petition was allowed on 08.04.2022 on condition that the first respondent shall pay a cost of Rs.1,000/- to the petitioners on or before 22.04.2022. In the next date of hearing on 23.04.2022, the first respondent filed a memo and lodgment schedule for deposit of costs. As the petitioners were not willing to receive the costs and they decided to file a revision, the memo filed by the first respondent was accepted and ultimately, the trial Court recorded payment of costs and allowed the petition by order dated 17.06.2022. The initial conditional order passed by the trial Court allowing the petition on payment of costs and also the final order passed



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

by the trial Court on 17.06.2022 regarding payment of costs and allowing the application are the subject matter of these Civil Revision Petitions.

3. The learned counsel for the petitioners would vehemently contend that the first respondent/first defendant failed to comply with the conditional order passed by this Court on 08.04.2022 by paying the costs within the time stipulated and therefore, the trial Court ought not to have accepted the cost paid by the petitioner on 23.04.2022.

4. The learned counsel appearing for the first respondent would submit that the first respondent was willing to pay the costs within the time. The petitioners were not willing to accept the costs as they decided to prefer revision and therefore, the first respondent was constrained to file a memo before the Court with lodgment schedule for deposit of the costs.

5. The learned counsel appearing for the petitioners would submit that in the affidavit, the reason assigned by the first respondent for condoning the delay of 367 days is not at all sufficient.



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

6. A perusal of the affidavit filed in support of the condone

delay petition indicates that the first respondent has stated in the affidavit that at the relevant point of time, he was affected with jaundice and hence, could not attend the Court and give suitable instructions to the counsel. Therefore, *ex parte* decree was passed. It is also seen from the typed set of papers that subsequent to the *ex parte* decree, the plaintiffs issued a legal notice to the defendants on 19.11.2012 under Ex.R2. The instant applications to set aside the *ex parte* decree and condone the delay in filing the petition to set aside the *ex parte* decree were filed by the first respondent on 21.11.2012, immediately after receipt of the notice.

7. The trial Court taking into consideration the title dispute involved in the suit, had taken a liberal approach and accepted the reason given by the first respondent and condoned the delay. Having regard to the length of delay and also the fact that immediately after receipt of legal notice from the plaintiffs, the first defendant filed an application seeking to set aside the *ex parte* decree, this Court is also inclined to take a liberal view of the matter and I do not find anything to interfere with the discretion exercised by the trial Court.



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

8. As far as the contention raised by the learned counsel appearing for the petitioners that the initial conditional order passed by the trial Court was not complied by the first respondent is concerned, it is seen from the order passed by the trial Court dated 17.06.2022 that on the next date of hearing on 23.04.2022, the first respondent filed a memo along with lodgment of schedule for deposit of the costs. It is also noted that the counsel for plaintiffs made an endorsement that he had been instructed to prefer a revision and therefore, not willing to accept the costs. Even though there is delay of one day in filing the lodgment schedule, the trial Court accepted it and ultimately allowed the application.

9. Having regard to the averment that the cost amount was deposited on the next date of hearing, this Court feels that the petitioners have not made out any strong ground to interfere with the discretion exercised by the trial Court. However, taking into consideration that there is some default on the part of the first respondent/first defendant in complying the conditional order passed by the trial Court, this Court is inclined to impose the cost of Rs.5,000/- on the first respondent/first defendant and the same shall be paid to Chief Justice Relief Fund, within a period of two weeks from today. If the first respondent complies with



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

the order, these Civil Revision Petitions shall stand dismissed confirming the order passed by the trial Court. In case, the first respondent/first defendant fails to comply with the order passed by this Court, the benefit of the order passed by the trial Court will not enure to the first respondent/first defendant and the petition filed by him to condone the delay in I.A.No.837 of 2014 shall stand automatically dismissed.

10. With these directions, both the Civil Revision Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.07.2026

NCC : Yes / No
Index : Yes / No

vsm

To

1. The Additional District Munsif Court, Lalgudi
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(PD)(MD)No.507 of 2023 and 1190 of 2024

S.SOUNTHAR, J.

vsm

C.R.P.(PD)(MD)Nos.507 of 2023
and 1190 of 2024

03.07.2026ko