

C.R.P(MD)No.1220 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2026

CORAM

THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.1220 of 2023

and

C.M.P(MD)No.5882 of 2023

Aavuthiannagounder (died)

1.Muthusamy
2.Thulasimani

.. Petitioners

Vs.

Karmegam

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 151 of the Code of Civil Procedure, to call the records relating to the impugned fair and decretal order in I.A.No.1 of 2022 in O.S.No.59 of 2016 dated 05.01.2023 passed by the Principal District Judge, Karur.

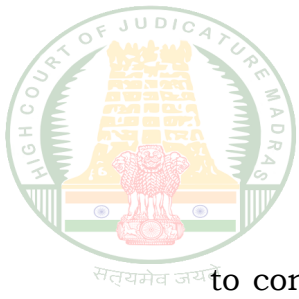
For Petitioner : No appearance

For Respondents : Mr.S.Deenadhayalan

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ORDER

The Civil Revision Petition is filed challenging the order of the trial Court dismissing the application filed by the petitioners seeking



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to condone the delay of 1033 days in filing a petition to set aside the ex parte decree.

2.The respondent instituted a suit for specific performance and obtained an ex parte decree on 19.11.2019. The petitioners were arrayed as the defendants 2 and 3 in the said suit. Thereafter, they filed an application to set aside the ex parte decree along with an application to condone the delay of 1033 days in filing the petition to set aside the ex parte decree.

3.In the affidavit filed in support of the application for condonation of delay, the petitioners stated that the suit was posted for the cross-examination of P.W.1 on 26.09.2019, and the said hearing date was informed to them by their counsel. However, owing to the prolonged illness of their father, who was also the first defendant in the suit, they were unable to appear before the Court and effectively prosecute the case. It is further stated that their father died on 16.05.2021, and due to the bereavement, they could not immediately meet their counsel. Subsequently, on coming to know about the ex parte decree, they filed the present applications.

4.Even according to the averments made in the affidavit filed in support of the application for condonation of delay, the petitioners



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had knowledge of the pendency of the suit and were informed by their counsel about the date of hearing. Admittedly, the petitioners' father died only on 16.05.2021, whereas the ex parte decree had already been passed on 19.11.2019, when he was alive. Therefore, the reason given by the petitioners that they could not contact their counsel due to the demise of their father cannot be accepted.

5.It is also evident from the impugned order that the petitioners had received notice in the execution proceedings initiated by the respondent and had even entered appearance through their counsel on 03.02.2022. However, the present application to set aside the ex parte decree, along with the application to condone the delay, was filed only on 18.10.2022. The delay between February 2022 and October 2022 has also not been satisfactorily explained by the petitioners.

6.Taking into consideration all these facts, the trial Court has rightly held that the petitioners failed to explain the inordinate delay of 1033 days. I find no no illegality or infirmity in the order passed by the trial Court.



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7.Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

01.07.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
skn

To

- 1.The Principal District Court, Karur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

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