



WEB COPY

CRP NO. 135 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP NO. 135 of 2025

1.K. Sri Valsalan @ Valsalan
2.Radha
3.Baby

Petitioners

Vs

1.Mohammad Yasin
2.Palanisamy
3.Murugarajan
4. The District Collector,
Collectorate, Salem – 1.

5. The Special District Revenue Officer,
(Land Acquisition),
NH 68, Salem 636 004.

6. The Special Tahsildar,
(Land Acquisition),
NH 58, Kallakurichi Post and Taluk,
Villupuram District

... Respondents

Civil Revision Petition filed under Article 115 of Code of Civil Procedure to set aside the order dated 24.09.2024 made in I.A.No2 of 2021 in A.S.No..... of 2021 by the Principal District Judge, Salem.



WEB COPY



For Petitioner : T.S.Vijaya Raghavan

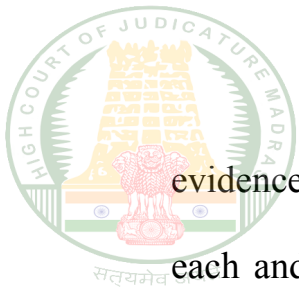
For Respondents : M/s T.R.Gayathri
Frangelin S
For R1 to 3
M/s. D. Gopal
Govt. Advocate
For R4 To R6

ORDER

The petitioners are the plaintiffs in O.S.No.4 of 2010 on the file of Sub Court, Athur. The respondents are defendants before the trial Court.

2. The trial Court, after full fledged trial, dismissed the suit by judgment dated 24.02.2023. The petitioners/plaintiffs filed appeal before the Principal District Court, Salem on 04.12.2023 with the delay of 248 days. The petitioners/plaintiffs had contended that the 1st petitioner, who is a senior citizen, and an Octogenarian, was taking care of this case and he was suffering with various medical ailments and thereby he was unable to follow his counsel and receive the certified copy of the judgment and decree in time and file an appeal within a prescribed time and thereby, there was a delay of 248 days delay in filing the appeal.

3. The respondents entered appearance and contested the petition. The appellate court finding that the 1st petitioner has not filed any documentary

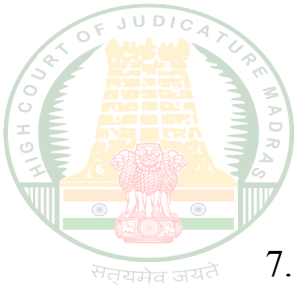


evidence to prove that he was suffering from medical ailments and further that each and every day's delay has not been explained properly, had dismissed the petition, seeking to condone the delay of 248 days in filing the appeal, against which, the present civil revision petition has been filed.

4. Learned counsel for the petitioners submits that the 1st petitioner/plaintiff is aged about 82 years and he was suffering from various health issues and therefore, there was a delay of 248 days in filing the appeal. He further submits that the 1st petitioner/plaintiff could not file any documents before the first appellate Court, however, he has filed the same before this Court to prove that during the relevant point of time, the 1st petitioner/plaintiff was taking treatment and therefore, there was a delay of 248 days. Learned counsel further submits that the first appeal is a matter of right and a valuable right, where the 1st petitioner/plaintiff can prove his case and if a chance is not given to the petitioners to contest the appeal, they will be put to severe hardship and prays that the petition may be allowed on terms.

5. Despite service of notice on the respondents 1 to 3 and they having been represented through counsel, there was no representation on 14.02.2025 and therefore, the case is posted today under the caption “for orders.”

6. Even today, there is no representation for the respondents 1 to 3.



WEB COPY

7. Mr.P.Gurunathan, learned counsel appearing for the respondents 4, 5 and 6 submits that the appellate court, finding that the 1st petitioner/plaintiff has not filed any documentary proof to show that he was suffering from various medical ailments and he has not explained each and every day's delay, had dismissed the petition.

8. Heard both sides and perused the materials available on record.

9. It is the case of the revision petitioners that the first petitioner/plaintiff, who is an Octogenarian was following the appeal and due to his medical ailments, he was unable to pursue the matter and receive the copies of decree and judgment in time and thereby, there was a delay. However, the first appellate Court, finding that the first petitioner/plaintiff has not produced any documentary evidence to prove that he was suffering from medical ailments and each and every day's delay has not been properly explained, dismissed the petition.

10. The petitioner has filed documents/medical records to prove that he was suffering with various ailments. This Court is of the opinion that the delay can be condoned on payment of cost for the inconvenience caused to the respondents.



WEB COPY

11. Accordingly, the order passed by the learned Principal District Judge, Salem in I.A.No.2 of 2023 in Unnumbered AS No.../2023 is set aside and the delay is condoned on condition that the petitioners shall deposit a sum of Rs.3,000/-(Rupees Three Thousand only) to the credit of I.A.No.2 of 2023 in Unnumbered AS No.../2023 on the file of Principal District Court, Salem.

12. On such deposit being made, the Principal District Court, Salem shall number the appeal and issue notice to the respondents and proceed in accordance with law. On appearance of the respondents and also filing of petition, the amount shall be disbursed to the respondents.

13. With the above direction, the Civil Revision Petition is allowed. No costs.

19-02-2025

A.D.JAGADISH CHANDIRA,

sr

To

1. Mohammad Yasin
S/o. Meerasha Sahib, Murarbath Village and Post, Sankarapuram Taluk,



Villupuram District.

2. Palanisamy

S/o. Late Velappa Goundar, Paakampadi Village, Kallakurichi Post and Taluk,
Villupuram District.

3. Murugarajan

S/o. Palaniappan, Siruvachur Village and Post, Attur Taluk, Salem District.

4. The District Collector

Collectorate, Salem 1

5. The Special District Revenue Officer

(Land Acquisition), NH 68, Salem 636 004.

6. The Special Tahsildar

(Land Acquisition), NH 58, Kallakurichi Post and Taluk, Villupuram District.

CRP No.135 of 2025

19.02.2025