



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.551 of 2022

Subramanian @ Komugimanian

... Petitioner

Vs.

- 1.Santhappan
- 2.Kolanjiappan
- 3.Krishnamoorthy
- 4.Raman (Died)
- 5.R.Gopal
- 6.R.Periyasamy
- 7.R.Andal

... Respondents

*[Respondents 5 to 7 are brought
on record as LRs of the deceased
R4 viz Raman vide Court order
dated 01.08.2024 in
CMP.No.6332 of 2024 in
CRP.No.551 of 2022]*

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order and decretal order dated 08.10.2021 in I.A.No.97 of 2017 in A.S.No.04 of 2015 on the file of the Principal Subordinate Judge, Kallakurichi.

For Petitioner : Mr.T.Dhanasekaran

For Respondents : Mr.S.Muthukumar for R1
Mr.D.Sivakumar for R5
No appearance for R2
R3 not ready in notice



R4 died
No appearance for RR6 & 7

WEB COPY

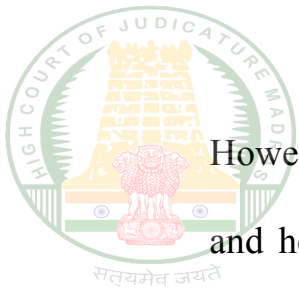
ORDER

This revision has been filed to set aside the order dated 08.10.2021 in I.A.No.97 of 2017 in A.S.No.4 of 2015 on the file of the Principal Subordinate Court, Kallakurichi.

2.Heard Mr.T.Dhanasekaran, learned counsel for the petitioner, Mr.S.Muthukumar, learned counsel for the 1st respondent and Mr.D.Sivakumar, learned counsel for the 5th respondent.

3.The revision is directed against the dismissal of an application filed seeking condonation of delay of 510 days in filing the application to restore the dismissal of the appeal for non-prosecution.

4.The learned counsel for the petitioner would state that the counsel for the revision petitioner had died pending the appeal proceedings and he had no notice about the death of the counsel and soon after he came to about the death, he had engaged the present counsel and filed an application.



However, in the interregnum period, the delay of 510 days has occasioned and hence, the application was filed seeking to condone the delay of 510 days in filing the application to restore the appeal to file. The First Appellate Court, finding that the petitioner had not shown sufficient cause to explain the delay of 510 days, proceeded to dismiss the application, as against which the revision has been filed.

5.The learned counsel for the petitioner also brings to my notice that an appeal has been filed by one of the other defendants and the same is pending in A.S.No.83 of 2016. He would therefore state that no prejudice would be caused to the respondents, if this appeal is also restored to file and disposed of along with A.S.No.83 of 2016.

6.Per contra, the learned counsel for the 1st respondent would state that the Appellate Court has rightly found that the petitioner has not explained the inordinate delay of 510 days and the conduct of the petitioner has been found to be not diligent. He would therefore state that the petitioner does not deserve any indulgence in this revision.



7.The learned counsel for the 5th respondent would fairly state that since the connected appeal is any how being heard by the very same Court, this appeal also may be restored and both the appeals can be decided together in an expeditious manner.

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

9.Admittedly, the appeal filed by the revision petitioner was pending and the counsel who was representing the petitioner passed away during the pendency of the appeal. The petitioner has stated in the affidavit that he did not have notice about the death of the counsel. Normally, in first appeals, the advocates are entrusted to take care of the matter and the parties are not required to be present for hearings as well. Therefore, I find that the reasons set out in the affidavit to be probable and acceptable. However, more so, when a connected appeal filed against the very same judgment and decree is also pending in A.S.No.83 of 2016, that too, before the same Court, I do not see any prejudice being caused to any of the respondents, if the appeal is restored to file and directed to be disposed of along with A.S.No.83 of 2016, expeditiously. In the interest of justice, I am inclined to set aside the order passed in I.A.No.97 of 2017.



WEB COPY

10. In fine, the Civil Revision Petition is allowed. The order dated

08.10.2021 in I.A.No.97 of 2017 in A.S.No.4 of 2015 on the file of the Principal Subordinate Court, Kallakurichi, is set aside. The appeal suit in A.S.No.4 of 2015 is restored to file. The learned Principal Subordinate Judge, Kallakurichi, is directed to hear A.S.No.04 of 2015 and A.S.No.83 of 2016 together, after giving a fair opportunity to all the counsel appearing for the parties in both the appeals and disposed of the appeals by the end of January 2026. There shall be no order as to costs.

24.09.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

ata

To

The Principal Subordinate Judge, Kallakurichi.



WEB COPY



P.B. BALAJI,J.

ata

CRP.No.551 of 2022

24.09.2025