



C.R.P.No.299 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM :

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.299 of 2025

and

CMP.No.1928 of 2025

S.A.Venkatesh Kumar

... Petitioner

Versus

1.S.A.Gnanasekar
2.HemalathaThangaraj
3.Teeta Krishnamurthy
4.Shanti Madhavan
5.E.Madhavan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.3 of 2023 in O.S.No.2196 of 2020 dated 17.12.2024 on the file of IV Additional City Civil Court at Madras.

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for M/s.V.Srimathi



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ORDER

Challenging the order allowing the petition filed by the third defendant to condone the delay of 3367 days in filing the written statement in the suit in O.S.No.2196 of 2020, the present revision has been filed.

2. Brief background of the case is as follows:

The plaintiff in suit has sought a relief to declare the settlement deed executed on 31.03.2009 in favour of the second defendant, i.e., mother in favour of son and consequent sale deeds as null and void and various other reliefs. Plaintiff proceeded as if the properties are purchased in the name of benami, i.e., mother of the parties. It appears that the earlier suit filed in O.S.No.7838 of 2007 questioning the settlement deed dated 24.10.2007 has been dismissed. Be that as it may, the defendants 3 and 4 being a mute spectator throughout the suit at the fag end of the trial filed the application to condone the delay of 3367 days in filing written statement in the suit in O.S.No.2196 of 2020. The said application was allowed based on the no



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objection endorsed by the original plaintiff. The written statement has been received. In the written statement, contention has been raised supporting the case of the plaintiff. Hence, this revision.

3. The learned senior counsel for the revision petitioner submitted that there was no sufficient cause shown for condoning such huge delay in receiving the written statement. Further, having received the written statement, no opportunity whatsoever given to the 2nd defendant/revision petitioner, who is the only contesting defendant to file a reply statement and also to cross examine the witnesses, whereas, the entire suit is now posted for arguments. According to him, substantive rights of the parties to repudiate the allegations have been taken away in view of the hasty procedure adopted by the Trial Court. It is further stated that the petitioner cannot claim any separate relief in the written statement, when the suit itself is not for partition. Hence, seeks for allowing this revision.

4. Since, no adverse order is passed against the respondents, notice to



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them is dispensed with. Heard the learned senior counsel for the petitioner and perused the materials placed on record.

5. As far as receiving the written statement and condoning the delay is concerned, though the delay appears to be huge since the suit itself is filed for declaration and the defendant were set exparte and exparte order sought to be set aside later and written statement sought to be filed, though there was no sufficient cause shown properly, this Court is of the view that receiving written statement before the trial concludes cannot be found fault with. Further, at the same time, when the second defendant took a stand and introduced a new case at the fag end of the Trial, that without giving opportunity to the contesting defendant to repudiate such allegations and cross examination of such parties and the case was posted for arguments in view of this Court certainly prejudices the rights of the only contesting party.

6. The suit itself is filed seeking declaration to set aside the registered



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documents and the suit cannot be considered as ordinary partition suit. Such view of the matter, the Trial Court is directed to give opportunity to the second defendant/revision petitioner to file reply statement to the written statement filed by the defendants 3 and 4 besides opportunity to cross examine the witness has to be given to the revision petitioner, if any in line filed by the defendants 3 and 4 at the fag end of trial. It is made clear that only after giving such opportunities to the parties, the matter shall be disposed of .

6. Accordingly, this revision stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2025

dhk

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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N.SATHISH KUMAR, J.

dhk

To

The IV Additional Judge
IV Additional City Civil Court, Chennai

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