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CRP.No.3801 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:25.09.2025

Pronounced on: 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**C.R.P. No.3801 of 2025
and CMP. No.22490 of 2205 in
CMP. No.20199 of 2025**

P.Sureshkumar

Petitioner(s)

Vs.

1.M.Dhandapani
2.Mani
3.Laskshmi
4.Karuppusamy
5.Premavathi

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the Subordinate Judge's Court at Pollachi, dated 17.11.2023 in I.A. No.01 of 2021 in O.S.No.294 of 2017.

For Petitioner : Mr.P.Valliappan,
Senior Counsel for
Mr.S.M.S.Shirram Narayanan
For Respondents : Mr.T.Gowthaman,
Senior Counsel for
Mr.S.A.Syed Shuhaibb for R1
No Appearance for R2
Exparte – R3 to R5

**ORDER**

The first defendant in O.S. No.294 of 2017, aggrieved by dismissal of I.A. No.1 of 2021 which was filed for condonation of delay of 655 days in filing the Application to set aside the exparte decree, is the revision petitioner.

2. I have heard Mr.P.Valliappan, learned Senior Counsel for Mr.S.M.S.Sriram Narayanan, learned counsel for the revision petitioner and Mr.T.Gowthaman, learned Senior Counsel for Mr.S.A.Syed Shuhaibb, learned counsel for the contesting first respondent.

3. The learned Senior Counsel Mr.P.Valliappan, inviting my attention to the relief sought for in the plaint and the judgment passed in the suit, would contend that the decree is a nullity, since the same does not conform to Order XX, Rule 4 CPC. The learned Senior Counsel would further state that the first respondent/plaintiff has relied on only photo copies of documents and not even the originals have been exhibited before the Trial Court. Mr.P.Valliappan, learned Senior Counsel would fortify his contentions stating the judgment is a nullity and therefore the delay has to be condoned and in support of his arguments, he would place reliance on the following decisions:-



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(i) *Meenakshisundaram Textiles Vs. Valliammal Textiles Ltd.*, reported in, 2011 (3) CTC 168;

(ii) *R.Stella Vs. Antony Francis*, reported in, (2019) SCC Online Mad 24941;

(iii) *Meenatchi Vs. Andal*, reported in, (2020) SCC Online Mad 14583;

(iv) *S.Baskar Vs. S.Ranjithkumar and Others*, reported in, (2024) SCC Online Mad 8748;

(v) *Inder Singh Vs. State of Madhya Pradesh*, reported in, (2025) SCC Online SC 600; and

(vi) *R.Rasappan Vs. D.Rajalakshmi (died) and others*, reported in, 2025 (4) CTC 337.

4. Relying on the ratio laid by this Court as well as the Hon'ble Supreme Court, Mr.P.Valliappan, learned Senior Counsel would submit that when the Trial Court has not passed a reasoned judgment and Courts have repeatedly held such judgments to be nullity, no serious prejudice would be caused to the contesting respondent, if the delay is condoned and an opportunity is given to the revision petitioner to contest the suit on merits.



5. Per contra, Mr.T.Gowthaman, learned Senior Counsel would invite my attention to the fact that the suit was filed before the Trial Court on 08.11.2017 and summons was duly served on the first defendant, the revision petitioner herein on 05.12.2017 itself. After giving adequate opportunities, the revision petitioner was set exparte for not appearing and filing written statement, on 28.02.2018 and thereafter, exparte evidence was taken on 31.07.2019 and decree came to be passed on 17.09.2019. It was much later on 02.08.2021, when the revision petitioner filed the Application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 655 days in filing the petition to set aside the exparte decree.

6. The learned Senior Counsel would also state that the revision petitioner had filed a suit in O.S. No.80 of 2016 against the Panchayat President, Pollachi and the said suit was also dismissed for his non appearance. Further, in Appeal Nos. 128 to 131 of 2022, the revision petitioner sought to implead himself before the Appellate Authority of the Tamil Nadu Pollution Control Board, Chennai and the same came to be dismissed on 29.11.2023 and the revision petitioner filed writ petitions challenging the said orders, which also came to be dismissed by the Hon'ble Division Bench of this Court on 08.02.2024, imposing costs



of Rs.20,000/- on the revision petitioner.

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7. He would also point out that despite pendency of the revision and knowing that an exparte decree has been passed and has not yet been set aside, the revision petitioner has executed a registered sale agreement on 03.05.2025, proposing to sell the suit property to a third party and that within a span of 10 days, he has also executed a power of attorney in favour of the third party, empowering the agent to deal with the suit property. Mr.T.Gowthaman, learned Senior Counsel would further state that the revision petitioner has been callous throughout and even the present revision was numbered after one and a half years, from the date of filing and there is absolutely no explanation given by the revision petitioner to seek condonation of the huge and inordinate delay of 655 days. Mr.T.Gowthaman, learned Senior Counsel would therefore state that the Trial Court has rightly dismissed the application and the same does not warrant interference in revision. He has also relied on the following decisions, in support of his contentions:-

(i) *Mohamed Ali Vs. V.Jaya and others*, reported in *CDJ 2022 SC 724*; and

(ii) *M.Thiyagarajan and another Vs. M.Jayaprakasam and another*, in *CRP. No.1078 of 2023, dated 01.09.2025*.



8. I have carefully considered the submissions advanced by the learned Senior Counsel on both sides.

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9. It is an admitted fact that the revision petitioner, being the first defendant, despite service of summons in the suit did not choose to enter appearance and the same led to his being set exparte and an exparte decree being passed on 17.09.2019. As rightly pointed out by Mr.T.Gowthaman, the suit was decreed after nearly 3 years from the date of service of summons on the revision petitioner. Coming to the reasons assigned by the revision petitioner for the delay, the petitioner casually states that he was no doubt served with summons on 05.12.2017, but he had misplaced the same at his work place. Further, according to the petitioner, he was having a dispute with his wife and was suffering from untold mental agony and therefore, he could not concentrate on other matters. According to the learned counsel for the petitioner only on 08.04.2021, he could lay his hands on the summons and immediately, he has taken steps to file the application to set aside the exparte decree, along with an application for condonation of delay of 655 days.

10. The said application was resisted by the first respondent, contending that though the petitioner admits to have received suit



summons even in December 2017, he had not bothered to even find out what had happened for more than a year and half, which exposes the irresponsible manner in which, the revision petitioner has gone about the litigation. The Trial Court, on enquiry and also considering the decisions that were relied on by both parties, held that the petitioner was not able to establish the reasons cited by him for the delay and also found that the contention of the petitioner that he misplaced the summons in the suit property where he was doing Coir business was false on account of Ex.A3, Retirement deed dated 14.06.2017, which was prior to the date on which the summons was served on the revision petitioner. In short, the Trial Court found that the petitioner has not made out sufficient cause for seeking condonation of delay on 655 days and dismissed the application.

11. Though Mr.P.Valliappan, learned Senior Counsel did not advance any serious argument with regard to the reasons for delay, the primordial ground on which Mr.P.Valliappan, learned Senior Counsel sought for condonation of delay was that the judgment passed exparte was in violation of the mandate of Order XX, Rule 4 of the CPC. Judgments of this Court and as well as the Hon'ble Supreme Court have also been relied on in this regard.



12. The Hon'ble Division Bench of this Court in *Meenakshisundaram Textile's* case (referred herein supra), while dealing with an application as against dismissal of an Application to set aside an exparte decree in a suit for recovery of money held that there is no different between a judgment and decree and an exparte decree and judgment and even while passing an exparte decree, the Court should show application of minimum requirement of consideration of pleadings and evidence and finding that the judgment on hand, passed by Trial Court was not in conformity to the provisions of the CPC, the Hon'ble Division Bench of this Court to set aside the judgment and decree.

13. In *R.Stella's* case, (referred herein supra), this Court in a revision arising out of dismissal of an Application under Section 5 of the Limitation Act, relying on the Hon'ble Division Bench judgment in *Meenakshisundaram Textiles* case, (referred herein supra) held that the cryptic and unreasoned judgment was exfacie, illegal and the Court considering the application for delay to set aside the exparte decree can also take into consideration, the fact that the original judgment itself is exfacie, illegal and proceeded to allow the revision, imposing certain conditions.



14. In *Meenatchi's* case, (referred herein supra), this Court while hearing the revision arising out of dismissal of an Application seeking condonation of delay in filing an Application for restoration of Interlocutory Application under Order IX, Rule 13 CPC, finding that both the petitioner and respondent were guilty of dragging the proceedings, thought it fit to give an opportunity to the defendants to contest the suit on merits, imposing costs on the defendants.

15. More recently in *S.Baskar's* case, (referred herein supra), this Court, exercising jurisdiction under Article 227 of the Constitution of India, set aside the judgment and decree in a suit which had been passed without following the mandate of Order XX, Rule 4 CPC. In fact, the Hon'ble Supreme Court in *Inder Sing's* case, (referred herein supra), while deciding the application for condonation of delay held that though there is no quarrel on the settled principle of law that the delay cannot be condoned without sufficient cause but it has to be kept in mind that, if in a particular case, merits have to be examined, then it should not be scuttled merely on the basis of limitation and in order to do substantial justice, the Court may take a liberal view.



16. In a later decision of this Court in *R.Rasappan's* case (referred herein supra), after discussing the earlier case law on the subject, this Court held that though decree is passed without confirming to Order XX, Rule 4 CPC, when such decree had attained finality, such a judgment and decree can only be termed as an improper judgment and can be set aside only in appeal or review or even under Order IX, Rule 13 CPC, subject to law of limitation. This Court clearly held that such a decree cannot be set aside in a petition seeking to condone delay under Section 5 of the Limitation Act or by invoking Article 227 of the Constitution of India. This brings us to the position that the argument regarding non conformity to Order XX, Rule 4 CPC cannot be agitated in a Section 5 petition under the Limitation Act or such a decree cannot be sought to be annulled by invoking the extraordinary revisional powers under Article 227 of the Constitution of India. It may be open to the aggrieved party to raise these contentions either in appeal or review or even in an application under Order IX Rule 13 CPC, seeking to set aside the exparte decree. However, in the present case, the revision petitioner is only at the stage of seeking condonation of delay.

17. The Hon'ble Supreme Court in *Mohamed Ali's* case, disapproved of the High Court interfering under Article 227 of the



Constitution of India and setting aside an exparte judgment decree, holding that a remedy was available to the defendants was to either file an Application under Order IX Rule 13 CPC or challenge the judgment and decree by way of appeal before the First Appellate Court. The Hon'ble Supreme Court finding that the revisions arose only against refusal to condone delay in filing the petition to set aside the exparte decree, held that the High Court exceed its jurisdiction by setting aside the exparte judgment by invoking powers under Article 227 of the Constitution of India and ultimately confirmed the order of the Trial Court refusing to condone delay.

18. In *M.Thiyagarajan's* case (referred herein supra), relying on the decisions of the Hon'ble Supreme Court, I had an occasion to hold that the Court at the stage of considering an Application for condonation of delay is not required to deal with the merits of the case and the condone delay application will have to be decided on its own merits, examining the cause shown.

19. From the foregoing discussion, the legal position is now well settled that a person seeking condonation of delay has to make out sufficient cause which would be the first and most important step, before



proceedings any further. Testing the affidavit filed by the petitioner, explaining the delay of 655 days, as already found the petitioner has not given any acceptable reasons whatsoever for condoning the delay of 655 days, especially after having admitted to have received suit summons even on 05.12.2017. Further, the reasons given by the petitioner that he misplaced the summons in the coir business premises also stood falsified by the Retirement Deed, in and by which, the petitioner was no longer associated with the said business on the date of service of summons in the suit. In fact, this only goes to show that the petitioner has not come to Court with a true case, but has chosen to explain the delay citing false reasons. The Trial Court has rightly considered all these aspects and found that the petitioner has not made out any sufficient cause.

20. As held by this Court in *R.Rasappan's* case, (referred herein supra), merely because, the judgment and decree is improper for violation of the mandate of Order XX, Rule 4 CPC, that alone cannot be a ground warranting delay to be condoned. Condonation of delay has to be tested independently and the *sine qua non* for the same is “sufficient cause” being shown. Here, as already discussed, the petitioner has miserably failed to establish any cause much less, sufficient cause, entitling him to condonation of delay of 655 days. I do not find any



illegality or infirmity in the findings arrived at by the Trial Court warranting interference in revisions and accordingly, this Civil Revision Petition is ***dismissed***. Consequently, connected Miscellaneous Petitions are also closed. No costs.

07.11.2025

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Internet : Yes / No

To:

The Subordinate Judge at Pollachi.



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P.B.BALAJI, J.,

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Pre-delivery order in
C.R.P. No.3801 of 2025
and CMP. No.22490 of 2205 in
CMP. No.20199 of 2025

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