



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:24.11.2025

Pronounced on:28.11.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI**CRP. No.1493 of 2025**

Venkatapathy (Died)

1.V.Santhakumari

2.V.Umashankar

Petitioner(s)

Vs

Jagapathy (Died)

1.Chiristina Usha Rani

2.J.Santhosh Christoper

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 115 of the Code of Civil Procedure, to set aside the fair and final order dated 03.01.2025 made in I.A. No.2 of 2020 in O.S. No.122 of 2003 on the file for the learned Principal Subordinate Judge, Vellore, Vellore District.

For Petitioners : Mr.R.Vasudevan

For Respondents : Mr.T.Muthukrishnan for R2
No appearance for R1



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ORDER

The plaintiff's suit was dismissed for non-prosecution and the plaintiff had sought for restoration of the suit, along with an application for condoning delay of 2281 days and being unsuccessful in such attempt, present revision petition has been filed.

2. I have heard Mr.R.Vasudevan, learned counsel for the revision petitioners and Mr.T.Muthukrishnan, learned counsel for the contesting 2nd respondent.

3. Mr.R.Vasudevan, learned counsel for the revision petitioners would submit that the plaintiff had filed the suit for declaring the plaintiff's right, title and interest in the suit properties and for a consequential permanent injunction to restrain the defendant from interfering with the plaintiff's rights and the plaintiff's tenants occupying the suit property. The suit came to be dismissed for non prosecution and claiming that the plaintiff was aged more than 85 years, he was not able to travel long distances and he also never knew about the suit being dismissed after being posted in the special list on 04.11.2013, the plaintiff sought for restoration of the suit. The learned counsel submits



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that the petitioners had given satisfactory explanation for the delay which was only on account of his ill health and advanced age, which restricted his movements out of the house without help. The learned counsel would therefore state that the Trial Court should have adopted a liberal approach and condoned the delay.

4.Per contra, Mr.T.Muthukrishnan, learned counsel for the contesting 2nd respondent would submit that the petitioner had only assigned his age and ill health as the reasons for not being able to file the Application to restore the suit in time. Firstly, he would contend that the delay is 2281 days and it is inordinate. Further, the petitioner during the very same period has been initiating proceedings against tenants in the property and has also been participating in public functions and given interviews. The learned counsel therefore states that the reason assigned to justify the delay is false and the Court cannot show any indulgence to such a person and therefore, the Trial Court has rightly dismissed the condone delay application and the same does not warrant interference.

5. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order of the



Trial Court, dismissing the condone delay application.

6. As already seen above, the delay of 2281 days is sought to be explained citing ill health and old age of the petitioner and that he could not move out of the house which resulted in the suit being dismissed for non prosecution on 04.11.2013. The Trial Court has found that excepting for the self serving averments in the affidavit, not a scrap of evidence has been produced to establish that the petitioner was so seriously ill that he could not move out of the house for 10 long years. Though Mr.R.Vasudevan, learned counsel for the petitioners relies on the orders passed between the same parties and also tenants in the property, the revisions were disposed of giving liberty to the respondents herein to establish their rights in an appropriate Civil Suit by seeking partition, citing the orders passed in CRP. Nos.2635, 2636 and 2637 of 2012, and Mr.Vasudevan, contends that when the petitioners had taken possession, it is seen from the orders in these revisions that the petitioners attempted to set aside the concurrent orders passed by the Rent Control Authorities under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 (Act 18 of 1960), claiming right over the tenanted premises. The respondent, in such circumstances, were directed to approach the



Civil Court to establish their rights by filing a suit for partition. I do not see how these orders will come to the rescue of the revision petitioners in the present case. The revision petitioners have sought for their title to be declared before the Competent Court and the suit came to be dismissed for non appearance of the plaintiff, way back on 04.11.2013.

7. It is contended by the learned counsel for the second respondent by relying on a typed-set of papers containing screen shots of youtube interviews given by the revision petitioner Venkatapathy (deceased) on various dates viz., 05.01.2012, 03.06.2010, 29.10.2013 and as late as 24.09.2019. These documents are not disputed by the revision petitioners. The documents clearly indicate that the revision petitioner, late Venkatapathy was certainly moving out of his residence and giving interviews and also participating in public functions. The reason therefore assigned by the petitioners that he was confined within the four walls of his residence for 10 long years is clearly falsified by these documents. Even assuming these documents which were not produced before the Trial Court cannot be taken into consideration, even then the petitioners ought to have substantiated the plea of continuous illness for 10 years. Medical records could have been filed before the Trial Court to



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establish sufficient cause. However, no attempt was made on the side of the petitioners to produce relevant documentary evidence to satisfy the Court that the delay was only on account of some sufficient and acceptable cause. The Trial Court has rightly held that there is no evidence adduced by the revision petitioners and the delay has not been satisfactorily explained. I do not find that the said order requires interference in revision. Accordingly, Civil Revision Petition is dismissed. No costs.

28.11.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The Principal Subordinate Judge, Vellore,
Vellore District



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P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. No.1493 of 2025

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