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CRP NPD.No.1060 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 09.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.1060 of 2025 & CMP.No.6105 of 2025

K.Gopal

. . . Petitioner

Versus

Rajan Babu

. . . Respondent

PRAYER : Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal Order dated 07.12.2024 made in M.P.No.1 of 2022 in RLTOP.No.73 of 2022 on the file of the XIII Court of Small Causes, Chennai.

For petitioner : Mr.N.A.Nassir Hussain

For respondent : Mr.D.Thirugnanam

ORDER

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Challenging the order of the trial Court dismissing the application filed by the petitioner to condone the delay of 311 days in filing an application to set aside the *ex parte* decree, the present revision petition has been filed.

2. The respondent filed rent controller petition to evict the petitioner under section 21[2] [a] of the Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. In the said petition, despite sufficient opportunities given to the petitioner, as he has not appeared before the court, he was set *ex parte* and an *ex parte* decree was passed on 31.01.2023. The contention of the petitioner is that due to his continuous blood pressure, he was not able attend the Court and file counter statement, he was set *ex parte* and an *ex parte* decree has been passed against him. Thereafter, the petitioner has come forward with the present application to condone the delay of 311 days in filing an application to set aside the *ex parte* decree.

3. It is the contention of the petitioner that due to his continuous blood



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pressure, he was unable to attend the court and file his counter statement.

Hence, the delay had occurred. The trial Court, taking note of the fact that the reason stated by the petitioner is not sufficient and satisfactory to condone the delay of 311 days and each and every day has to be satisfactorily explained, dismissed the petition. Challenging the same, the present revision has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused entire materials available in record.

5. The reason assigned for delay in the affidavit is that due to his continuous blood pressure, he was unable to attend the court and file his counter statement. The trial Court taking note of the fact that sufficient cause to condone the delay of 311 days has not been explained by the petitioner and the petitioner had not shown sufficient cause and dismissed the application.

6. Though the word “sufficient cause” under Section 5 of the Limitation Act is elastic enough to enable the Court to apply law in a meaningful manner



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to subserve the ends of justice, the fact remains that, to enlarge such discretion to the parties to advance substantial justice, the reasons assigned by the parties should be true and justifiable and there must be sufficient cause.

7. In *Basawaraj and another v. Special Land Acquisition Officer [2013 (4) SCC 81]*, the Apex Court has held that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that the expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of *bona fides* is attributed to the party. It is further observed therein that, even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute and in case a party has acted with negligence, lack of *bona fides* or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. It is further observed that each application for condonation of delay has to be decided within the framework laid down by the Hon'ble Supreme Court. It is further observed that, if Courts start condoning delay where no sufficient cause is made out imposing conditions, then that would amount to violation of statutory principles and showing utter disregard



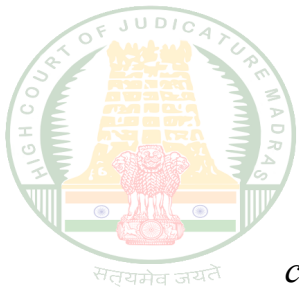
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to legislature. The said judgment has also been followed by the Hon'ble Supreme Court in ***Majji Sannemma @ Sanyasirao v. Reddy Sridevi and others [Civil Appeal No.7696 of 2021, dated 16.12.2021]***.

8.Further, the Hon'ble Supreme Court in ***Thirunagalingam v. Lingeswaran and another [Unnumbered Civil Appeal arising out of SLP (C) No.17575 of 2023, dated 13.05.2025]***, has held as follows :

“31.It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32.Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present



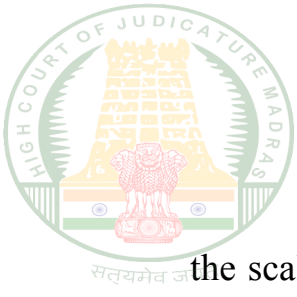
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case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963.”

9. Therefore, without assigning *bona fide* and justifiable reasons, as a matter of right, the petitioner cannot seek indulgence of this Court for his negligence in not prosecuting the matter. Having allowed the suit to be decreed *ex parte*, the petitioner has waken up from a deep slumber for 311 days and now seeks to unsettle the settled issues. The only reason assigned by the petitioner is that due to his continuous blood pressure, he was unable to attend the court and file his counter statement..

10. The Court, in exercising discretion, particularly in these types of petitions, has to see the conduct, behaviour and attitude of a party relating to its inaction or negligence. The above factors are relevant to be taken into consideration, as the fundamental principle is that Courts are required to weigh



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the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. There is an increasing tendency to perceive delay even in a non-serious matter. Hence, the delay due to the lackadaisical attitude should be curbed at the initial stage itself. The petitioner has given a casual explanation that due to his continuous blood pressure, he was unable to attend the court and file his counter statement. Such a reason, in the view of this Court, is invented only for the purpose of filing the present application. Therefore, it is very clear that the petitioner has shown his negligent attitude towards the litigation, though aware of the consequences of the judicial proceedings.

11.Once the delay has not been explained to the satisfaction of the Court, as a matter of right, the petitioner cannot seek to condone his negligence. Even for the Court to extend its discretion to lien in favour of a party, he/she should assign *bona fide*, justifiable and probable reasons. The parties who seek such a relief must show sufficient cause. The petitioner has not shown any sufficient cause to condone such a huge delay. Hence, this Court is of the view that the order of the trial Court dismissing the application,



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requires no interference.
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12. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The XIII Judge,
Court of Small Causes, Chennai.



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N. SATHISH KUMAR, J.

VTC

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