



**CRP No.1404 of 2023**

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 10-11-2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**CRP No.1404 of 2023 and CMP No.9438 of 2023**

1.Smt.Palaniammal  
2.M.Ravikumar  
3.M.Dhanabagyam

... Petitioners

Vs

N.Arumugam

... Respondent

Revision filed under Article 227 of the Constitution of India to set aside the order and decree in I.A.No.213 of 2022 in O.S.No.97 of 2011 dated 09.12.2022 on the file of Principal District Munsif Court at Tirupur.

For Petitioners : Mr.M.Himavanth

For Respondent : Mr.K.Govi Ganesan

**ORDER**

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. The present revision is arising out of an application filed under Section 5 of the Limitation Act in and where by the petitioner sought for



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condonation of delay of 3711 days in filing an application to set aside the exparte decree in a suit filed by the respondent for bare injunction (permanent injunction).

3. Learned counsel for the petitioner states that though the petitioners appear to have been served with summons in the suit, it is the specific case of the petitioners that they have not engaged any counsel to appear on their behalf and they dispute the appearance made by some advocate before the trial court. Further, inviting my attention to the judgment passed, without any consideration of the pleadings and documentary evidence adduced by the plaintiff and there being non-compliance of the Order XX Rule 4 of Civil Procedure Code, the counsel states that the said judgment has to be necessarily set aside.

4. Taking advantage of the decree for injunction, the respondent has proceeded to execute a settlement deed and asserted that the property belongs to the petitioners. He would rely on the decision of this Court in ***R. Stella vs V. Antony Francis*** reported in ***(2019) 5 LW 161***.

5. Per contra, learned counsel for the respondent submits that the



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petitioners have already alienated the property and they have no subsisting interest in the suit property and submits that the delay is inordinate and the trial court has rightly considered the application made by the petitioners and found that there is no sufficient cause made out for condoning the huge and inordinate delay of 3711 days in filing the application to set aside the exparte decree.

6. I have considered the submissions made by the learned counsel on either side.

7. It is not in dispute that the petitioners were served with summons in the suit. Though it may be their contention that they have not engaged any counsel to defend them in the suit, they cannot plead ignorance of the fact that the suit has been laid against them, since admittedly the suit summons have been served and even according to them, they have not taken any steps to engage a counsel to defend their interest in the suit.

8. It is the further case of the petitioners that they came to know about the exparte decree only when the respondent filed a suit against the purchaser of the petitioners and immediately they have taken out the present



application.

9. Insofar as the fact that the properties has been already alienated by the petitioners as contended, as a vendor, the petitioners may be obligated to provide a clear title to the purchasers and therefore, the action taken by the petitioners to protect the interest of the purchasers cannot be faulted with. However, in any event, the delay is 3711 days and admittedly, summons were served. The reasons assigned by the petitioners are clearly not amounting to “sufficient cause” , warranting the delay to be condoned. I do not find any infirmity in the order of the trial Court.

10. Sofar as the reliance placed in *R.Stella vs V.Antony Francis* reported in (2019) 5 LW 161, this Court has recently held in the case of *R.Rasappan vs D.Rajalakshmi (died) and Others* reported in 2025 (4) CTC 337 that non-compliance of Order XX Rule 4 of Civil Procedure Code can be taken into consideration only in an application under Order IX Rule 13 of Civil Procedure Code or any appeal filed against the exparte decree and not at the stage of condonation of delay or even in a revision under Article 227 of the Constitution of India.



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11. In the light of the above, I do not find any infirmity in the order passed by the trial Court dismissing the application. However, it is made clear that it is open to the petitioners to institute appropriate proceedings to protect the right of their purchasers in accordance with law and subject to the law of limitation.

12. With the above observation, the civil revision petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

**10.11.2025**

Index:yes/no

Website:yes/no

Speaking Order/Non-Speaking Order  
sr

To

The Principal District Munsif Court, Tirupur



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**P.B.BALAJI,,J**

sr

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