



WEB COPY



CRP NPD.No.2928 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 16.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.2928 of 2025 & CMP.N.16490 of 2025

Gubendran

. . . Petitioner

Versus

1. A.Jothilakshmi

2. Selvarani

3. The Secretary, K.1613 Primary Agrculture
Co-operative Society Limited, Chinnaveerampatti. . . Respondents

PRAYER : Petition filed under section 115 Code of Civil Procedure to set aside the Order and final Order made in I.A.No.1155 of 2022 in O.S.No.190 of 2013 dated 03.09.2024 on the file of the District Munsif Court at Udumalpet and allow the above Civil Revision Petition.

For petitioners : Mrs.Rita Chandrasekar
for Ms.R.Meenakshi

For respondents : Mr.B.Mohan – R1 & R2
Mr.T.Arunkumar – R3

ORDER



CRP NPD.No.2928 of 2025

WEB COPY

Challenge has been made to the dismissal of the application filed to condone the delay of 1704 days in filing an application under Order IX Rule 9 of Code of Civil Procedure to restore the suit which was dismissed for default, the present Civil Revision Petition has been filed.

2. The suit has been filed on behalf of the minor represented by his natural guardian, father, for declaration and permanent injunction. It is the contention of the learned counsel appearing for the petitioner that the petitioner's grandfather settled the property in favour of the plaintiff on 24.06.2010 and settlement has also been acted upon. When the matter stood thus, the said settlement has been cancelled unilaterally. Hence, the suit has been filed. During the pendency of the suit, the suit was allowed to be dismissed for default by the guardian of the plaintiff. Therefore, the petitioner had filed an application to condone the delay of 1704 days to restore the suit which was opposed by the respondents on the ground that the delay has not been properly explained and there was a delay of more than 5 years. There is no proper reasons adduced. Based on the pleadings, the trial Court has



CRP NPD.No.2928 of 2025

dismissed the application. Challenging the same, the present revision petition has been filed.

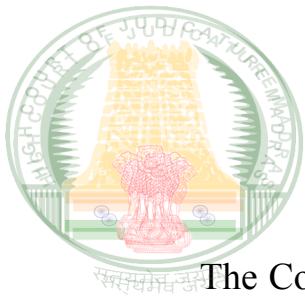
WEB COPY

3. It is the contention of the learned counsel appearing for the petitioner that interest of the minor is involved and he was a student at the time of filing of the suit. In the Meanwhile, his father died. Therefore, substantial right cannot be denied merely on the ground of delay.

4. Whereas, it is the contention of the learned counsel appearing for the respondents that sufficient cause has not been shown to condone such a huge delay and the petitioner attained majority in the year 2019 and he has not challenged the same immediately. Hence, opposed this Civil Revision Petition.

5. Heard both sides and perused entire materials available on records.

6. While condoning the delay, the length of the delay is not a matter.



CRP NPD.No.2928 of 2025

The Court has to find out whether sufficient cause is shown or not and further it has to see whether it would cause any serious impact on the substantive right of the parties also. On a perusal of the application filed on behalf of the petitioner, by his father, who was his guardian, this Court finds that there is no proper reasons adduced except contending that he fell ill, no other reason has been adduced. Be that as it may.

7. The very suit itself has been filed on behalf of the minor. Though the guardian of the minor has not given proper reasons to condone such a huge delay, the Court has to take note of the interest of the minor involved in this matter. It is relevant to note that the minor has now become major and the fact remains that when the suit was allowed to be dismissed for default, the plaintiff was only pursuing his education. Even after filing of the application his guardian has not taken steps to bring the petitioner on record. In the meanwhile, the guardian has also died. Therefore, this Court is of the view that merely the guardian has committed mistake, the substantive right of he petitioner cannot be denied. Further the petitioner came to know about these facts only after the death of his father. It is relevant to note that the Hon'ble

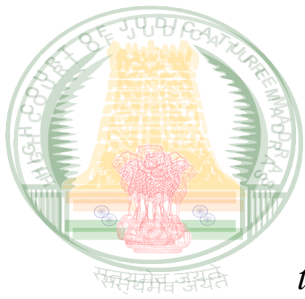


Apex Court in the case of ***Robin Thapa vs. Rohit Dora*** reported in **(2019) 7**

SCC 359 held that a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.

8. Further, the Hon'ble Supreme Court, in ***Collector, Land Acquisition, Anantnag and others v. Mst.Katiji and others*** reported in **(1987) 2 SCC 107**, followed in ***Raheem Shah and another v. Govind Singh and others*** reported in **(2023) 18 SCC 746**, has held as follows :

“3.The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear



WEB COPY

to have percolated down to all the other courts in the hierarchy.

And such a liberal approach is adopted on principle as it is realized that:

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

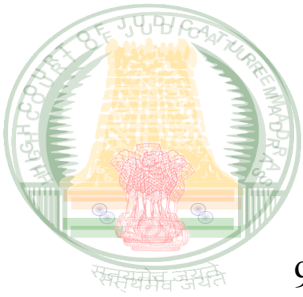
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”



CRP NPD.No.2928 of 2025

WEB COPY

9. Therefore, this Court is of the view that the petitioner, who was then a minor, cannot be faulted with for the lapses on the part of his guardian. Hence, in order to give fair opportunity to the petitioner to adjudicate his rights on merits, I am inclined to allow this petition.

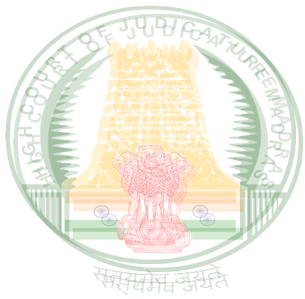
10. Accordingly, this Civil Revision Petition is allowed and Order of the trial Court in I.A.No.1155 of 2022 in O.S.No.190 of 2013 is set aside. The trial Court is directed to dispose of the suit expeditiously, within a period of 6 months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

16.07.2025

Index : Yes / No
Internet: Yes
Speaking/non speaking order

vrc/mkn

To,
The District Munsif,
Udumalpet.



WEB COPY



CRP NPD.No.2928 of 2025

N. SATHISH KUMAR, J.

vrc

CRP NPD No.2928 of 2025

16.07.2025