



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 04.11.2025

Order pronounced on : 14.11.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1611 of 2023

Karunaiammal

... Petitioner

Vs.

Kaliyannan

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decretal order dated 02.02.2023 passed in I.A.No.138 of 2021 in O.S.No.336 of 1988 on the file of the Sub-Court, Avinashi.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.N.Krishnakumar
for M/s.Sarvabhauman Associates

ORDER

The 3rd defendant, who suffered an ex-parte decree in a suit for partition in O.S.No.336 of 1988, is the revision petitioner.



WEB COPY

2.The revision petitioner filed an application under Section 5 of the Limitation Act to condone the delay of 3702 days, seeking to set aside the ex-parte decree dated 16.06.2000. On enquiry, the Subordinate Court, Avinashi, dismissed the application and challenging the same, the present revision petition has been filed.

3.I have heard Mr.K.Govi Ganesan, learned counsel for the revision petitioner and Mr.N.Krishnakumar for M/s.Sarvabauman Associates, learned counsel for the respondent.

4.After hearing the learned counsel for the revision petitioner, I was informed that there are two connected suits between the same parties and touching the same subject matter and hence, in order to ascertain whether the other two suits are having bearing on the present suit, I had granted time to the learned counsel for the respondent.

5.It is now reported by the learned counsel for the respondent/plaintiff that one of the suits filed by the plaintiff in O.S.No.146 of 2015 was also



WEB COPY

decreed ex-parte on 03.03.2017 and an application has been filed for condonation of delay in 2018 and the same is pending. The learned counsel for the respondent would further submit that the third suit is the suit filed by the revision petitioner, claiming that her father has executed a Will in favour of the revision petitioner and for enforcing the bequest under the said Will, the petitioner as plaintiff, in O.S.No.70 of 2025, has sought for the relief of partition. The learned counsel for the respondent would therefore state that even in the other suit filed in O.S.No.146 of 2015, the petitioner has not been diligent in following the matter and therefore, no indulgence should be shown to the petitioner at this point of time, especially considering that one suit is of the year 1988 and the other suit is of the year 2015.

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

7.I do not find any infirmity in the order of the trial Court dismissing the application for condonation of delay of 3072 days. The only reasons assigned by the petitioner was that she was affected by Jaundice and the Court disbelieving the said reason and finding it insufficient to condone the



WEB COPY

delay of 3072 days, dismissed the condone delay application. Therefore, on this ground, I do not see any merit in the revision. Even otherwise, with regard to the two connected suits as well, the petitioner has not been diligent in even defending the other suit filed in 2015 and the suit has been decreed ex-parte even in 2017 and even as on date, in 2025, the delay application in filing the application to set aside the ex-parte decree has not been disposed of.

8.Insofar as the third suit, namely O.S.No.70 of 2025, which has been filed by the petitioner herself, it is an independent claim arising out of a Will alleged to have been executed by her father, bequeathing certain items of the property in her favour and consequently, the relief of partition is sought for. The respondent is yet to even receive summons in the said suit and it would therefore not be proper to direct a joint trial of suits of the year 1988 and 2015, along with the new suit filed in the year 2025, which appears to be *prima facie* on a totally different cause of action, even though there may be some overlapping of the suit properties.



WEB COPY

9. However, insofar as the present revision, when the petitioner has not shown sufficient cause for explaining the inordinate delay of 3072 days, I do not see any reason why the order of the trial Court needs to be interfered with. There is no merit in the civil revision petition.

10. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.

14.11.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
ata

To
The Sub-Court, Avinashi.



WEB COPY



P.B. BALAJI,J.

ata

Pre-delivery order made in

CRP.No.1611 of 2023

14.11.2025