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CRP. No.2692 of 2025



IN THE HIGH Court OF JUDICATURE AT MADRAS

Reserved on:25.09.2025

Pronounced on:10.10.2025

CORAM

THE Hon'ble MR.JUSTICE P.B.BALAJI

**CRP. No.2692 of 2025
and CMP. No.15188 of 2025**

1.N.E.Perumal
2.P.Tamilselvam
3.P.Ragavan
4.P.Kavinilavu

Petitioners

Vs

1.N.Anbumani
2.The Sub Registrar,
Kalavai, Arcot Taluk.

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the Subordinate Court, Ranipet in I.A. No.1 of 2020 in O.S. No.293 of 2013 dated 18.07.2023.

For Petitioners : Mr.V.Venkata Subban

For Respondents : Mr.P.K.Rajagopal for R1
Mr.D.Gopal,
Government Advocate for R2

ORDER

The revision petitioners are the defendants in O.S. No.293 of 2013.

The said suit came to be decreed exparte and the petitioners filed I.A.



No.1 of 2020 seeking condonation of delay of 571 days in filing the Application to set aside the exparte decree dated 10.07.2018. The said Application was resisted by the respondents and on enquiry, the Trial Court found that the petitioners had not made out sufficient cause, warranting condonation of delay and dismissed the Application. Challenging the said order, the present revision has been filed.

2. I have heard Mr.V.Venkata Subban, learned counsel for M/s.Sarvabhauman Associates, learned counsel for the petitioners and Mr.P.K.Rajagopal, learned counsel for the first respondent and Mr.D.Gopal, learned Government Advocate for the second respondent.

3. Mr.Venkata Subban, learned counsel for the petitioners state that the suit was filed for specific performance of an agreement of sale and according to learned counsel for the petitioner, the suit agreement is a sham and nominal document and it was only a loan transaction, which is abundantly clear from the terms of the sale agreement itself. Pointing out to the payment of Rs.2,50,000/- even on the date of agreement and the requirement to pay the balance sale consideration within a period of three years, the learned counsel for the petitioners would state that the transaction was not an intended or real sale agreement, but only a loan transaction for which the property was offered as security, by entering



into an agreement of sale. The learned counsel would state that the petitioner has valid defence in the suit and the Court should have adopted a liberal approach, instead of dismissing the application. The learned counsel for the petitioners would also invite my attention to the affidavit filed in support of the condonation of delay and state that the petitioners came to know about exparte decree only when they received notice in the Execution Petition.

4. The learned counsel would also rely on the decision of the Hon'ble Supreme Court in *Inder Singh vs. The State of Madhya Pradesh* reported in, 2025 *LiveLaw* (SC) 339, where the Hon'ble Supreme Court held that a liberal approach should be taken in condoning delay when limitation undermines the merits of the case and obstructs substantial justice.

5. Per contra, Mr.P.K.Rajagopal, learned counsel for the first respondent would submit that the petitioners have not chosen to even file the written statement, alongwith the application for setting aside the exparte decree and condonation of the delay application. He would further state that even prior to filing of the suit for specific performance, a pre-suit notice had been issued and despite engaging a Counsel in the suit, the defendants did not chose to file written statement and they were



set exparte on 29.10.2014 and yet decree came to be passed only on 10.07.2018, since the Official defendant viz., Sub Registrar, Kalavai had filed a written statement.

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6. Mr.P.K.Rajagopal, learned counsel for the first respondent would also state that even in E.P. No.96 of 2019, the petitioners were served with notice and they have remained exparte. He would also invite my attention to the evidence adduced by P.W.1 in the condonation of delay application, where he has admitted that he was taking treatment for jaundice only for a period of three months. Therefore, Mr.P.K.Rajagopal, would state that there is absolutely no cause shown for the huge delay of 571 days and he would therefore contend that the petitioners have not shown any just or sufficient cause and the Trial Court has rightly dismissed the application for condonation of delay and the same does not warrant interference.

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

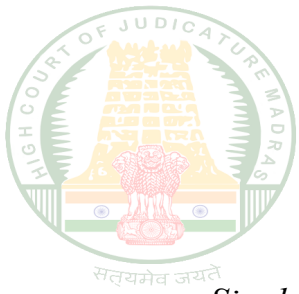
8. It is not in dispute that in the suit for specific performance, the petitioners were served with summons and they entered appearance for not filing written statement, the petitioners were set exparte even in 2014



and subsequently, an exparte decree was passed only on 10.07.2018.

Though there are four defendants, the explanation which is sought to be offered by the petitioners is only concerning one of them. There is nothing on record to show why the other three petitioners/defendants were prevented from appearing and instructing the Counsel to file a written statement. In fact, before the Trial Court, the first petitioner was examined as P.W.1 and he admits that he was aware of the exparte order being passed for not filing the written statement and that since he was affected by jaundice, he was suffering for three months. He has however stated there is no proof to establish that he was affected with jaundice and that he was taking native treatment.

9. In any event, when the application for setting aside the exparte decree is filed with a delay of 571 days and it is the admitted version of P.W.1 himself viz., the first petitioner that he was suffering from jaundice only for a period of three months, nothing prevented the first petitioner to take immediate steps to set aside the exparte decree after a period three months. The Trial Court has discussed these relevant circumstances, in a right perspective and also taken note of the fact that even in the Execution Petition, the petitioners appeared after receiving notice and event thereafter they have taken more than a year to file the application to set aside the exparte decree.



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10. As regards the decision of the Hon'ble Supreme Court in *Inder Singh's* case (referred herein supra), that was a case where the appeal was filed before the Hon'ble Supreme Court challenging the condonation of delay in favour of the State. Even in the said decision, the Hon'ble Supreme Court has held that there can be no quarrel on the settled principles of law that delay cannot be condoned without sufficient cause and that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation. Further, the High Court had exercised discretion and condoned the delay in filing the Second Appeal and on facts, the Hon'ble Supreme Court found that the Second Appeal deserved to be heard and therefore, did not interfere with the order condoning delay. Therefore, the ratio laid down in the said case, on a totally different set of facts, will not apply to the facts of the present case.

11. The Trial Court has rightly found that the delay of 571 days has not been satisfactorily explained and I do not see any grounds made out by the revision petitioners warranting interference with the well considered order passed by the Trial Court and accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous



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Petition is also dismissed. No costs.

10.10.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

1. The Subordinate Court, Ranipet.
2. The Sub Registrar,
Kalavai, Arcot Taluk.

P.B.BALAJI, J.,

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Pre-delivery order in
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and CMP. No.15188 of 2025

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