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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1872 of 2023

1.Pandurangan

2.Anjalai

... Petitioners

Vs.

Rajendran

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair order and decretal order dated 04.11.2022 passed in I.A.No.84 of 2021 in O.S.No.109 of 2011 on the file of the Principal District Munsif Court, Thittagudi.

For Petitioners : Mr.D.Baskar

For Respondent : Mr.V.Sithannan

ORDER

The plaintiffs are the revision petitioners. The suit in O.S.No.109 of 2011 filed by the revision petitioners before the Principal District Munsif Court, Thittagudi, came to be dismissed for non-prosecution on 14.02.2018, seeking to restore the suit to file, the petitioners filed an application under



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Order IX Rule 9 of CPC, along with a Section 5 application under the Limitation Act, seeking condonation of delay of 1043 days. The said application was resisted by the respondent/defendant and on enquiry, the trial Court dismissed the application. Aggrieved by the said dismissal of the condonation of delay application, the present revision has been filed.

2.I have heard Mr.D.Baskar, learned counsel for the petitioners and Mr.V.Sithannan, learned counsel for the respondent.

3.The learned counsel for the petitioner would state that the trial Court failed to see that the non-appearance of the plaintiffs was only on account of the 1st plaintiff suffering from Jaundice and had taken native treatment, for which, no documentary evidence could have been provided. He would further state that the suit having been filed for the relief of declaration and injunction, an opportunity ought to have been given by the trial Court, by at least putting the petitioners on terms, instead of totally shutting the doors on the plaintiffs.

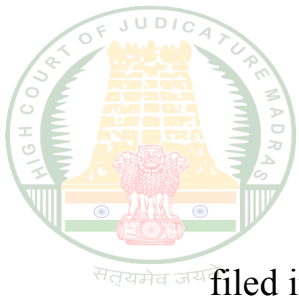


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4.Per contra, Mr.V.Sithannan, learned counsel for the respondent would state that the trial Court has not committed any error in dismissing the condonation of delay application. He would invite my attention to the evidence adduced by P.W.1, that is the 1st revision petitioner, who has admitted that he took treatment only for 28 days and thereafter, he met his counsel in March 2018. He has also admitted that at that point of time, he came to know about the dismissal of the suit, however the application was not taken out immediately thereafter, but filed only in 2021. It is therefore the contention of the counsel for the respondents that the trial Court has rightly held that the delay has not been sufficiently explained and consequently, rightly dismissed the application.

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

6.The only ground on which the delay of 1043 days was sought to be condoned was that the 1st plaintiff was suffering from Jaundice and he was taking native treatment. No other reasons have been assigned in the affidavit

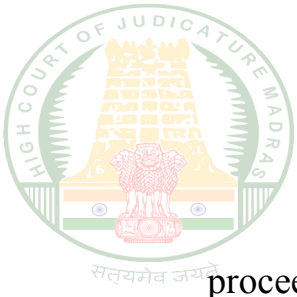


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filed in support of the application.

7. Admittedly, the parties have also adduced evidence in the interlocutory application seeking condonation of delay and the 1st plaintiff, who was examined as P.W.1, has admitted that he took treatment only for 28 days and after recovering, he met his counsel in March 2018 and also admitted that, at that point of time, he was informed about the dismissal of the suit. While so, nothing prevented the petitioner from taking out an application, at least within 30 days from the date on which he met his counsel in March 2018. On the contrary, the plaintiffs have slept over the matter and have chosen to file the application to set aside the dismissal order, along with an application for condonation of delay, only on 22.01.2021. There is absolutely no explanation for the total inaction on the side of the plaintiffs for close to three years.

8. The only reason set out in the affidavit is that one of the plaintiffs is suffering from Jaundice. There is nothing to even suggest as to why and how the other plaintiff was prevented from appearing before the Court and



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proceeding with the trial. Therefore, I do not find any perversity or infirmity in the findings arrived at by the Trial Court dismissing the condonation of delay application, warranting interference in this revision. In view of the above, I do not find any merit in the revision.

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

17.09.2025

Nuetral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No

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To

The Principal District Munsif Court, Thittagudi.



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P.B. BALAJI,J.

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