



CRP.No.2238 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated 17.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.2238 of 2025

Prakash Chand Lalwani

... Petitioner

Versus

1.Rasal Kawar

2.Manmull Kattaria (Since Deceased)

3.Dharmendra Kattaria

4.M.Dharmichand Jain

5.M.Suresh

6.Indra

7.Sangeetha

8.Sapna

(Since the second respondent died, his legal heirs, respondents 4 to 8 are brought on record as per memo dated 26.06.2025 filed by the learned counsel for the respondents 1 and 3)

... Respondents

Prayer: Petition filed under Section 115 of the Code of Civil Procedure to set aside the order dated 02.12.2024 made in I.A.No.1 of 2024 in AS.SR.No.9023 of 2024 on the file of the I Additional City Civil Court, Chennai.



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For petitioner : Mr.F.Ukkash
for Mr.Anirudh A Sriram

For respondents : Mr.G.Saravanan for R1 & R3
R2- Died

ORDER

Memo has been filed by the learned counsel for the respondents stating that the second respondent died on 10.03.2025 and seeks to record the death of the second respondent and his legal heirs. The said memo is taken on record.

2. Challenging the impugned order rejecting the application filed to condone the delay of 38 days in filing the appeal against the judgment and decree dated 28.02.2024 passed in O.S.No.2295 of 2014.

3. The suit has been originally filed by the plaintiff/revision petitioner in O.S.No.2294 of 2014 on the file of the V Assistant Judge, VI Assistant Court (FAC) under Order XXXVII of CPC for recovery of sum of Rs.7,20,000/- together with interest on Rs.4,50,000/- at 24% per annum, later it was converted to regular suit and the suit was tried. The suit has been dismissed vide decree and judgment 28.02.2024. An appeal was filed as against the judgment and decree dated 28.02.2024 along with an application to condone the delay in filing the appeal in



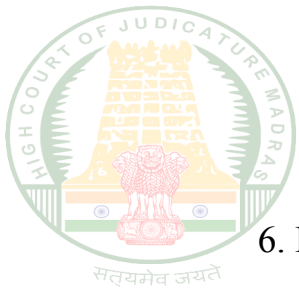
I.A.No.1 of 2024, wherein, it is the stand of the petitioner that he received the

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certified copy only on 06.06.2024 and further, owing to old age ailments, he could not file the appeal immediately. The said application was opposed by the respondents on the ground that no documents are filed to substantiate their alleged illness and sought dismissal of the application. The appellate Court vide impugned order dated 02.12.2024 had dismissed the application. Challenging the same, the present revision has been filed.

4. The learned counsel for the petitioner submitted that the petitioner is old aged and suffering from various old age ailments and the certified copy was received only on 06.06.2024, therefore, the appeal could not be filed immediately. Further, he has a good case on merits, if opportunity is given, he will succeed his case in the appeal. Hence, seeks for liberal approach.

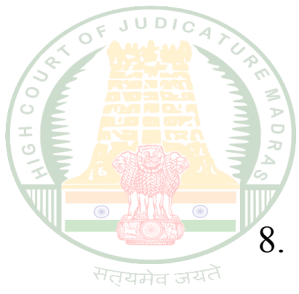
5. The learned counsel for the respondents submitted that the petitioner has not properly explained each delay and no sufficient cause is shown. Thus, seeks for dismissal of this revision.



6. Heard both sides and perused the materials placed on record.

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7. The right of appeal is a substantive and valuable legal remedy, forming an integral part of the adjudicatory process. Court must remain cautious not to defeat such rights on mere technical grounds, particularly where refusal to condone delay may result in miscarriage of justice. It is relevant to note that though the party has not established sufficient cause, while deciding whether there is sufficient cause or not, the Court must also bear in mind the object of doing substantive justice. The conduct of the party in the present case though is not appealing to the satisfaction of this Court, the same cannot be a ground to take away the substantive right. 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.



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8. In the interest of advancing substantial justice and bearing in mind that the right of appeal is a valuable remedy, the substantive rights of the parties should not be denied on technical grounds. Procedural lapses alone should not frustrate the ends of justice. Such view of the matter, in order to grant one more opportunity to the petitioner to contest the appeal on merits, this Court is inclined to set aside the impugned order dated 02.12.2024 and the same is hereby set aside. The Appellate Court is directed to number the appeal and decide the appeal on its own merits and dispose of the same within a period of three months thereafter.

9. In view of the above, this revision stands allowed. No costs.

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Index : Yes / No

Speaking/non speaking order

dhk

(Note: The Registry is directed to carry out necessary amendments in the cause title as per the memo filed by the respondents 1 and 3 dated 26.06.2025)



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N. SATHISH KUMAR, J.

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To,

1.The I Additional Judge
I Additional City Civil Court, Chennai

2.The Section Officer
VR Section, Madras High Court

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