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C.R.P.No.2917 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**C.R.P.No.2917 of 2025
and C.M.P.No.16446 of 2025**

1.Selvaraj
S/o.Thandavan @ Thandan,
Mercku Street, Akkichettipalayam Village,
Palaniyapuri Post, Attur Taluk, Salem District.

2.Kalaiselvi
W/o.Srinivasan, Kanthasampudur,
Arasanantham Post,
Attur Taluk, Salem District.

Petitioner(s)

Vs

Indira Selvam
W/o.Perumal,
Thaneerpanthalakadu, Moolapalli Post,
Namagiripettai, Rasipuram Taluk, Namakkal District.

Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 07.02.2025 passed in I.A.No.5 of 2024 in I.A.No.3 of 2024 in O.S.No.140 of 2021 on the file of the Subordinate Court, Attur, Salem District.



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For Petitioner(s) : Mr.SP.Chockalingam

For Respondent(s) : Mr.Dalit Tiger C.Ponnusamy

ORDER

Challenging the order dated 07.02.2025 passed in I.A.No.5 of 2024 in I.A.No.3 of 2024 in O.S.No.140 of 2021 on the file of the Subordinate Court, Attur, Salem District, the revision petitioners/plaintiffs have preferred the present civil revision petition.

2. For the sake of convenience, the parties will be referred to as per their rankings in the trial Court.

3. The plaintiffs *viz.* Selvaraj and Kalaiselvi have filed the suit in O.S.No.140 of 2021 seeking the relief of declaration and for permanent injunction as against the defendants *viz.* A.P.Subramanian, Panneer Selvam, Indira Selvam and Government officials *viz.* District Collector, Salem, Tahsildhar, Attur, Village Administrative Officer, Akkichettipalayam and the Sub-Registrar, Attur. The suit had been posted on 09.11.2022 for filing



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written statement by the defendants. For non-filing of written statement, an *ex parte* decree came to be passed on 18.07.2023. Thereafter, the third defendant/Indira Selvam has filed an application in I.A.No.3 of 2024 in O.S.No.140 of 2021 to condone the delay of 195 days in filing a petition to set aside the *ex parte* decree dated 18.07.2023.

4. After hearing both sides, the trial Court allowed the application on condition that Indira Selvam/third defendant should pay a sum of Rs.5,000/- to the plaintiffs on or before 05.11.2024, failing which, the application would be dismissed automatically and adjourned the case on 06.11.2024. Thereafter, Indira Selvam/third defendant has filed I.A.No.5 of 2024 in I.A.No.3 of 2024 in O.S.No.140 of 2021 under Sections 148 and 151 CPC to enlarge the time for payment of cost to the plaintiffs stating that due to his lack of knowledge, he had understood that order will be passed on 06.11.2024 and cost will be paid later to the plaintiffs.

5. Upon hearing either side, the trial Court vide order dated 07.02.2025 allowed the application in I.A.No.5 of 2024 on payment of Rs.2,000/- to the plaintiffs on or before 21.02.2025 and thereafter, time



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would be extended in I.A.No.3 of 2024, failing which, the application would be dismissed.

6. Aggrieved over the same, the revision petitioners/plaintiffs have preferred the present civil revision petition.

7. The learned counsel appearing for the revision petitioners/plaintiffs would submit that the trial Court has failed to appreciate that Indira Selvam/third defendant was a rank defaulter and does not worth the empathy or consideration of the Court. Further, the trial Court has failed to understand that the petition filed by Indira Selvam/third defendant under Sections 148 and 151 CPC seeking enlargement of time for payment of cost is unsustainable in law. Further, the reasons assigned in the application are not at all acceptable and the same is untenable. To strengthen his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in ***P.Shyamala vs. Gundlur Masthan*** reported in ***AIR 2023 SC 1224*** to show that the Court has to see all the attendant circumstances including if the vendee has conducted himself in a reasonable manner under the contract of sale. Another judgment of this Court in ***G.Kesavan vs. B.C.Raman*** reported in ***(2014) 1 MLJ 862*** to show that there must be a satisfactory



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reasons or convincing reason in the affidavit to entertain the application. Yet another judgment of this Court in ***Kuthalingam vs. T.S.Rama Narayana and Others*** reported in (2010) 4 MLJ 495 to show that the reasons adduced in the affidavit have not been established.

8. *Per contra*, the learned counsel appearing for the respondent/third defendant/Indira Selvam would submit that as directed by the trial Court, cost has been paid on 20.02.2025, but, the revision petitioners/plaintiffs have refused to receive the same and thereafter, the respondent/third defendant/Indira Selvam approached the trial Court to pay the amount through the bank. In order to meet the ends of justice, the trial Court has allowed the application and there is no reason to interfere with the same.

9. It is seen from the records that the suit has been filed for declaration and permanent injunction and due to non filing of written statement, an *ex parte* decree was passed on 18.07.2023, challenging which, Indira Selvam/third defendant has filed an application in I.A.No.3 of 2024 under Section 5 of the Limitation Act to condone the delay of 195 days in



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filing a petition to set aside the *ex parte* decree dated 18.07.2023 and the same was allowed on 18.10.2024 on condition that Indira Selvam/third defendant should pay a sum of Rs.5,000/- to the plaintiffs on or before 05.11.2024, failing which, the application would be dismissed automatically and adjourned the case on 06.11.2024. Thereafter, Indira Selvam/third defendant has preferred I.A.No.5 of 2024 in I.A.No.3 of 2024 in O.S.No.140 of 2021 under Sections 148 and 151 CPC to enlarge the time for payment of cost to the plaintiffs stating that due to his lack of knowledge, he had understood that order will be passed on 06.11.2024 and cost will be paid later to the plaintiffs. Considering the reasons stated by Indira Selvam/third defendant, the trial Court in order to meet the ends of justice by exercising its inherent power, allowed the application.

10. This Court is of the opinion that in order to decide the issue pending between the parties and in the interest of justice, an opportunity can be provided to Indira Selvam/third defendant and I find no reason to interfere with the order of the Court below.

With the above observations, this civil revision petition stands dismissed. No costs. Connected C.M.P. is closed.



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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes;

Neutral Citation: Yes/No

To

The Subordinate Judge,
Attur, Salem District.



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M.JOTHIRAMAN J.

nsd

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