



C.R.P.No.3834 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3834 of 2024

and

C.M.P.No.21038 of 2024

S.T.M.Muzhumathi Selvan

... Petitioner

Vs.

1.P.Govindan

P.Rajamanickam (died)

2.P.Palanisamy

P.Raju (died)

3.Pappathi

4.Pothuraj

5.Suguna

6.Sumathi

7.Minor Pradeep

8.Minor Praveen

9.Minor Praneeth

[Minors 7 to 9 are represented by their next friend
and Guardian Father Kumar]

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, against the docket order dated 01.04.2024 in I.A.No.2 of 2020 in I.A.No.94 of 2012 in unnumbered A.S.No. of 2012 on the file of the Principal District Court, Salem.



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For Petitioner : M/s.K.Vijayalakshmi
for M/s.Dass and Viswa Associates

For R1 to R9 : Mr.S.Kalyanaraman

ORDER

Challenging the order passed by the Principal District Judge, Salem, dismissing the application in I.A.No.2 of 2020 in I.A.No.94 of 2012 in unnumbered A.S.No. of 2012, to condone the delay of 261 days in taking steps to implead the legal heirs of the 4th respondent, the present revision has been filed.

2.Originally, the revision petitioner has filed the suit in O.S.No.112 of 2008 on the file of the Sub-Court, Mettur, for declaration and other consequential reliefs. The said suit was dismissed after full fledged trial. As against the dismissal of the suit, an Appeal has been filed by the petitioner before the Principal District Court, Salem, on 12.04.2012 with an application in I.A.No.94 of 2012 to condone the delay of 13 days in filing the Appeal. During the pendency of the application, the 4th respondent in the Appeal died. Therefore, the petitioner has filed an application in I.A.No.266 of 2014 to implead the legal representatives of the 4th



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respondent. The said application was also allowed. It is to be noted that, in the said application, only the son and wife of the 4th respondent were added, whereas, the daughters of the 4th respondent have not been brought on record. However, the Court below, taking note of the fact that the son and wife are sufficient to represent the estate of the deceased 4th respondent, allowed that application. Thereafter, consequential amendment application has been filed in I.A.No.76 of 2018 pursuant to the order passed in I.A.No.266 of 2014. The said application, though is consequential in nature, was dismissed by the trial Court on the only ground that the daughters of the 4th respondent, who are also necessary parties, have not been impleaded. Thereafter, it appears that the present application has been filed to implead the left out legal heirs, namely the daughters of the 4th respondent, of course, with a delay of 2061 days. However, the trial Court, taking note of the huge delay, dismissed the application. Challenging the same, the present revision is filed.

3.Heard the learned counsel on either side and perused the entire materials available on record.

4.Though the delay appears to be huge, the delay has resulted only in



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view of the non-application of mind by the Court. When there are parties already on record to represent the estate or interest of the deceased, the consequential amendment application has been dismissed merely on the technical ground of not impleading all the legal representatives. That too, when the petitioner has taken steps to set right that mistake with some delay, that application also is non-suited. Considering the facts, though the delay appears to be huge, in order to advance substantial justice, this Court is inclined to extend liberal approach in condoning the huge delay.

5. Accordingly, this Civil Revision Petition is allowed and the order impugned is set aside and the application in I.A.No.2 of 2020 in I.A.No.94 of 2012 in unnumbered A.S.No. of 2012 is ordered. The Appellate Court shall dispose of the Appeal on its own merits without further delay, expeditiously, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes
Index : Yes / No

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Speaking order / Nonspeaking order
Neutral Citation : Yes / No

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To

The Principal District Judge,
Salem.

N. SATHISH KUMAR, J.

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