



WEB COPY



CRP.Nos.2815 & 3054 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.Nos.2815 & 3054 of 2019
and C.M.P.Nos.18484 & 19639 of 2019

1.Susila Rani
2.Suriya

.. Petitioners in both CRPs

Versus

1.Jegadambal
2.Kavitha
3.Jayanthi

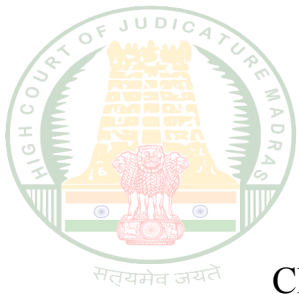
.. Respondents in both CRPs

Common Prayer:- Civil Revision Petitions filed under Section 115 of Code of Civil Procedure to set aside the fair and decretal orders dated 07.01.2019 passed in I.A.Nos.1254 & 1255 of 2018 respectively in O.S.No.797 of 2005 on the file of the learned Principal District Munsif, Salem.

For Petitioners : Mr.L.Mouli
For Respondents : Ms.Zeenath Begum for R1 & R2
R3 – Died

COMMON ORDER

Challenging the order of the Trial Court dismissing the application to condone the delay of 91 days in filing the petition to set aside the exparte decree, CRP.No.2815 of 2019 has been filed.

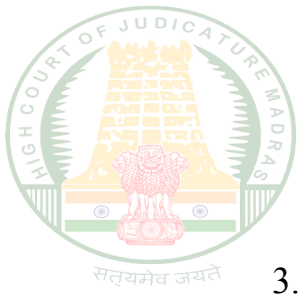


CRP.Nos.2815 & 3054 of 2019

WEB COPY

Challenging the order of the Trial Court dismissing the application filed under Order IX Rule 7 of CPC and Section 151 of CPC to set aside the exparte order dated 02.01.2007, CRP.No.3054 of 2019 has been filed.

2. Originally, the respondents has filed a suit in O.S.No.797 of 2005 on the file of the Principal District Munsif, Salem as against the defendants for partition and permanent injunction. After trial, preliminary decree was passed on 02.01.2007. Against which, the petitioners, who are the legal heirs of the second defendant filed an application in I.A.No.1254 of 2018 to condone the delay of 91 days in filing the petition to set aside the exparte decree and an application in I.A.No.1255 of 2018 to set aside the exparte order dated 02.01.2007. The only reasons assigned by the petitioners to condone the delay and setting aside the exparte decree are that they came to know about the passing of preliminary decree only when the advocate commissioner had visited their properties and the second defendant had not disclosed about the suit to them as he was a drunkard and not taking care of them during his lifetime. The Trial Court vide impugned orders dated 07.01.2019 dismissed the applications. Challenging the impugned orders, the present revisions have been filed.



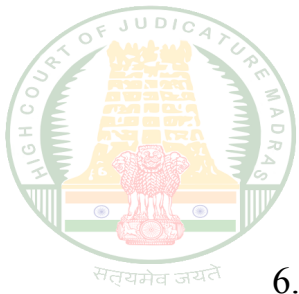
CRP.Nos.2815 & 3054 of 2019

WEB COPY

3. The learned counsel for the petitioners submitted that deceased second defendant never cared about the petitioners during his life time and they did not know about the passing of the preliminary decree, only when the advocate commissioner visited the premises, the petitioners came to know about the same, therefore, the delay occurred. Hence, seeks for liberal approach.

4. On the other hand, the learned counsel for the respondents 1 and 2 submitted that petitioners have not shown sufficient cause in condoning each days delay. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in *Majji Sannemma v. Reddy Sridevi and others* reported in *AIR 2022 SC 332*, wherein, the Hon'ble Supreme Court has held that when no explanation much less a sufficient or a satisfactory explanation has been offered by the appellants therein, the High Court is not at all justified in exercising its discretion to condone such a huge delay. Hence, the learned counsel opposed the revisions.

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



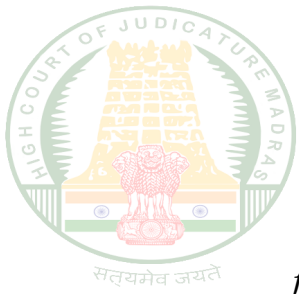
CRP.Nos.2815 & 3054 of 2019

WEB COPY

6. The Court, in exercising discretion, particularly in these types of petitions, has to see the conduct, behaviour and attitude of a party relating to its inaction or negligence. The above factors are relevant to be taken into consideration as the fundamental principle is that Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. There is an increasing tendency to perceive delay even in a non-serious matter. Hence, the delay due to nonchalant attitude should be curbed at the initial stage itself. Therefore, once the delay has not been explained and no documents are produced to substantiate the cause of delay, as a matter of right, the petitioners should not be shown any liberal approach. When there is 'no cause' for the delay, it cannot be treated as 'sufficient case'.

7. It is relevant to note that the Hon'ble Supreme Court in the case of *Sridevi Datla vs. Union of India and others* reported in (2021) 5 SCC 321 held as follows:

“ 28. It is evident that the term sufficient cause is relative, fact dependent, and has many hues, largely deriving colour from the facts of each case, and the behaviour of the litigant who seeks condonation of delay (in approaching the court). However, what can broadly be said to be universally accepted is that in principle, the applicant must display bona



CRP.Nos.2815 & 3054 of 2019

WEB COPY

fides, should not have been negligent, and the delay occasioned should not be such that condoning it would seriously prejudice the other party.”

8. It is brought to the notice of this Court that the final decree itself is passed on 25.09.2015 and shares have been allotted to the parties concerned. The learned counsel for the petitioner had not disputed the passing of the final decree. Therefore, this Court is the view that once the delay has not been explained and allegations have not been proved in the manner known to law, as a matter of right particularly in the partition suit which has reached finality, the same cannot be unsettled by one of the co-owner, who has suffered a decree way back in the year 2007. This Court is of the definite view that the delay cannot be condoned on insufficient grounds and by abusing the process of law.

9. Accordingly, these Civil Revision Petitions are dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions stand closed.

27.06.2025

dhk

Internet : Yes

Index : Yes/No

N. SATHISH KUMAR, J.



WEB COPY



CRP.Nos.2815 & 3054 of 2019

dhk

To

1. The Principal District Munsif
Principal District Munsif, Salem

2. The Section Officer
VR Section, Madras High Court

C.R.P.Nos.2815 & 3054 of 2019
and
C.M.P.Nos.18484 & 19639 of 2019

27.06.2025