



CRP No. 2745 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 2745 of 2025 & CMP.No.15490 of 2025

1. RAJKUMAR

S/o. S.K. Subramanian, Thippusulthan
Road, Opposite to Lakshmi Mahal,
Lakshmi Nagar, Sathyamangalam
Taluk, Erode District.

2. PORKODI

W/o. Periyasami, Sidhapur,
Coimbatore.

3. RAJALAKSHMI

W/o. S.K. Subramanian, Vadakkupettai,
Opposite to Sathya Theatre,
Sathyamangalam Town, Erode District.

Petitioner(s)

Vs

1. SUSEELA

W/o. R. Venkitachalam, Varadhanallur
Village, Chinnaperichipalayam, Now
res. at D.No.305, Natarajapuram,
Bhavani, Bhavani Taluk, Erode District.



Respondent(s)

PRAYER Civil Revision Petition filed under section 115 of Code of Civil Procedure to set aside fair order and final order dated 25.03.2025 passed in IA No.1 of 2024 in Unnumbered AS CFR No.2642/2024 by the learned Principal District Judge, Erode.

For Petitioner(s): J.Titus Enock

For Respondent(s): M/s.N.Manokaran

ORDER

Challenging the Order of the trial Court in dismissing the application filed by the petitioner to condone the delay of 393 days in filing the appeal challenging the decree and judgement dated 29.11.2022 in O.S.No.52 of 2019, the present revision Petition has been filed.

2. The brief background of the case is as follows :

The suit in O.S.No.120 of 1998 has been filed by the respondent for specific performance to enforce the contract executed by one S.K.Subramaniam, husband of the third defendant and father of the first and second defendants.



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The said suit came to be decreed on 25.02.2004 for specific performance

Thereafter, to enforce the decree an Execution Petition has been filed in E.P.No.48 of 2007 and sale deed was executed on 14.10.2008. Thereafter, it appears that while taking delivery of the property, it was objected by the revision petitioner on the ground that one acre was not available. Therefore, the respondent herein has filed the present suit for partition and separate possession in O.S.No.52 of 2019 on file of the Sub Court, Sathyamangalam. In the said suit, he had restricted his right only to 50 scents. In the said suit a preliminary decree has been passed. Challenging the said decree, an appeal has been filed with a delay of 393 days.

3. It is the contention of the petitioner that the first petitioner was suffering from jaundice and he was taking country treatment and hence, the petitioners were not able to file the appeal in time. The said application was opposed by the respondent. The trial Court, taking note of the fact that there is no sufficient cause, whatsoever shown by the petitioners, dismissed the



application. Challenging the same the present Civil Revision Petition has been filed.

4. It is the contention of the revision petitioners that right of appeal is a statutory one and therefore, they may be given an opportunity to file the appeal.

5. I have perused entire materials. The very affidavit filed by the revision petitioners to condone the delay of 393 days in filing the application to set aside the preliminary decree has been drafted in a very casual manner without any reasons, except contending that the first petitioner was suffering from jaundice and taking treatment. There is no whisper as to the nature of treatment and the place where he took treatment. Even assuming that such contention is true, nothing prevented the other petitioners in filing an appeal. The right of the parties has already been determined in O.S.No.120 of 1998 filed for specific performance, which has been decreed in favour of the respondent and the sale deed has also been executed in his favour and his right has been crystalized in respect of the suit property. Thereafter, the respondent



has restricted his claim only in respect of 50 cents. Therefore, filing an application with casual reasons as if one of the petitioner was suffering from jaundice and contending that therefore, they could not file the appeal in time, as discussed above, nothing but to protract the proceedings.

6. In ***Basawaraj and another v. Special Land Acquisition Officer [2013 (4) SCC 81]***, the Apex Court has held that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that the expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of *bona fides* is attributed to the party. It is further observed therein that, even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute and in case a party has acted with negligence, lack of *bona fides* or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. It is further observed that each application for condonation of delay has to be decided within the framework laid down by the Hon'ble Supreme Court. It is further observed that, if Courts start condoning



delay where no sufficient cause is made out imposing conditions, then that

would amount to violation of statutory principles and showing utter disregard to

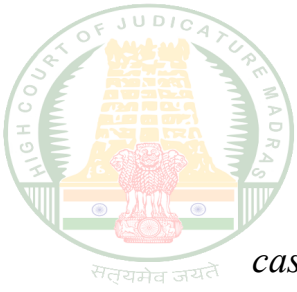
legislature. The said judgment has also been followed by the Hon'ble Supreme

Court in ***Majji Sannemma @ Sanyasirao v. Reddy Sridevi and others [Civil***

Appeal No.7696 of 2021, dated 16.12.2021].

7. Further, the Hon'ble Supreme Court in ***Thirunagalingam v. Lingeswaran and another [Unnumbered Civil Appeal arising out of SLP (C) No.17575 of 2023, dated 13.05.2025]***, has held as follows :

“31.It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.



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32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963.”

8. Therefore, without assigning *bona fide* and justifiable reasons, as a matter of right, the petitioners cannot seek indulgence of this Court for their negligence in not pursuing the matter. Hence, I do not find any merits in this Civil Revision Petition.



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9. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc

To

The Principal District Judge,
Erode.



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N.SATHISH KUMAR J.

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