



C.R.P.No.2686 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2686 of 2025

1.S.Sugumaran
2.S.Baskar

... Petitioners

Vs.

1.Sandhya
2.Senthamilarasi
3.Nandhitha

... Respondents

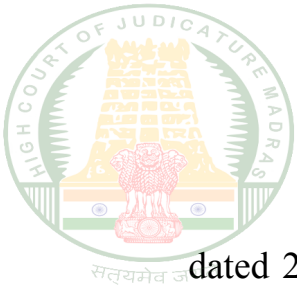
Prayer : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order dated 27.01.2025 made in I.A.No.1 of 2024 in O.S.SR.No.38440 of 2018 on the file of the I Additional City Civil Court, Chennai.

For Petitioners : Mr.R.Arunkumar

For R1 to R3 : No appearance

ORDER

Challenging the order passed by the learned I Additional Judge, City Civil Court, Chennai, in I.A.No.1 of 2024 in O.S.SR.No.38440 of 2018,

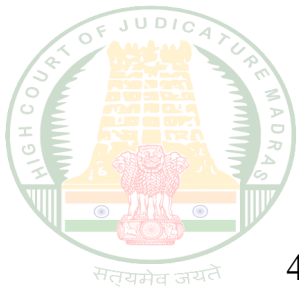


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dated 27.01.2025, dismissing the application to condone the delay of 2150 in re-presenting the plaint, the present revision has been filed.

2.The petitioners have presented the suit in O.S.SR.No.38440 of 2018 on 13.07.2018, praying for recovery of possession. The plaint was returned for certain defects on 19.07.2018 and 10 days' time was granted for compliance. It is the contention of the petitioners that, the petitioners' counsel, due to his old age and acute prolonged illness, was unable to re-present the same in time. Thereafter, Covid-19 Pandemic intervened and ultimately, the suit was re-presented only on 25.04.2024. Thereafter, some more queries were raised and again, the plaint was returned. Again, the plaint was re-presented on 07.08.2024. Thereby, totally a delay of 2150 days has occurred. Hence, the petitioners have filed the present application to condone the delay of 2150 days in re-presenting the suit.

3.The said application was opposed by the respondents. The trial Court, by order dated 27.01.2025, has dismissed the application. Challenging the same, the present revision has been filed.



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4.Learned counsel for the revision petitioners would submit that the delay was neither willful nor wanton, but only due to the old age of the erstwhile counsel and intervention of Covid-19 Pandemic. Further, he prays that the petitioners may be given an opportunity to establish their rights over the property.

5.Despite notice being served on the respondents and their names being printed in the cause list, there is no representation on behalf of the respondents.

6.It is relevant to note that the suit was originally presented on 13.07.2018 and thereafter, it was returned on 19.07.2018 to rectify certain defects. It appears that it was re-presented again and again and ultimately, the correct version of plaint was finally re-presented on 07.08.2024. Though there appears to be an inordinate delay of 2150 days, it is relevant to note that, in the month of March, 2020, lockdown was declared on account of Covid-19 Pandemic and the Apex Court, by order dated 10.01.2022, made in *Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020*, has



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excluded the period from 15.03.2020 till 28.02.2022 while computing limitation. However, this aspect has not been considered by the trial Court.

Even assuming that there is some sort of negligence on the part of the petitioner, that cannot be a ground to take away the substantive right of the parties. Sometimes, this type of negligence is bound to happen. Mere negligent or mistake on the party is the order of the day. Any issue has to be decided only on the basis of merits. Especially when the suit is for recovery of possession, the substantive rights of the parties cannot be shut at the threshold merely on the basis of some negligent conduct of the parties.

Further, it appears that the parties are relatives and the suit filed by the respondents for partition as against the petitioners herein in O.S.No.2163 of 2014 has been dismissed and the appeal preferred as against the dismissal of suit, in A.S.No.24 of 2022, has also been dismissed. Therefore, it is necessary that all the disputes between the parties should be given a quietus once for all, on merits. 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*



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possible, adjudication be done on merits.”
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7. Therefore, though the petitioners ought to have been diligent in prosecuting their litigation before the Court and their negligence in not following up the matter is not appealing to this Court, the failure on the part of the counsel to re-present the plaint after carrying out the defects in the plaint on time, cannot be entirely put against the party to deny them the opportunity to establish their substantive rights in a suit for recovery of possession, particularly when a substantial period in the interregnum has been excluded from limitation due to intervention of Covid-19 Pandemic. Therefore, this Court is inclined to give an opportunity to the petitioners to re-present the suit.

8. Accordingly, this Civil Revision Petition is allowed and the impugned order of the trial Court dated 27.01.2025 is set aside. Consequently, I.A.No.1 of 2024 in O.S.SR.No.38440 of 2018 stands allowed. No costs.

25.07.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

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

2.The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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