



CMP.No.13887 of 2025 & CRP.SR.No73930 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 01.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CMP.No.13887 of 2025 & CRP.SR.No73930 of 2025

Agathiyan

. . . Petitioner in CMP & CRP

Versus

1. Vinothkumar

2. Ranjitham

. . . Respondents in CMP & CRP

PRAYER in CMP.No.13887 of 2025 : Petition filed under section 5 of Limitation Act to condone the delay of 2193 days in preferring the Civil Revision Petition against the fair and decretal Order passed by the District Munsif Court, Harur in I.A.No.401 of 2017 in O.S.No.70 of 2012.

PRAYER IN CRP.SR.No.73930 of 2025 Petition filed under section 115 of Code of Civil Procedure to set aside the fair and decretal Order passed by the learned District Munsif, Harur, Dharmapuri District dated 23.01.2019 made in I.A.No.401 of 2017 in O.S.No.70 of 2012 and to allow the Interlocutory Application as prayed for.



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For petitioner : Mr.J.Pradeep

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ORDER

The Civil Miscellaneous Petition has been filed to condone the delay of 2193 days in preferring a Civil Revision Petition and the Civil Revision Petition has been filed challenging the Order of the trial Court dismissing the application filed by the petitioner to condone the delay of 1440 days in preferring an application to set aside the exparte decree.

2. The contention of the learned counsel appearing for petitioner is that the suit has been filed by the respondent for partition of the suit property claiming that the property is an ancestral property. The first defendant had dealt with the property in favour of the revision petitioner. In the suit, the revision petitioner has been served with summons and despite several opportunities given to the revision petitioner, he has not filed the written statement. Hence, the revision petitioner was set exparte on 18.06.2012 and thereafter, an exparte decree has been passed on 28.06.2013. An application has been taken out by the petitioner to condone the delay of 1440 days. The



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trial Court taking note of the fact that even after appearing in the final decree proceedings on 27.09.2016, the application has been filed to condone the delay has been filed only on 07.07.2017 and the reason assigned for condoning such a huge delay is that there was bus break down on that particular day. The evidence adduced on the side of the petitioner has not been accepted and the application has dismissed on 23.01.2019. Challenging the said Order, the present revision petition has been filed with a delay of 2193 days. The reasons assigned for such a huge delay is that he met with an accident and sustained injuries and only after his health improved he took steps to file the application.

3. Heard the learned counsel appearing for the petitioner and perused entire materials available on record.

4. In the earlier occasion it is contended that since there was a bus breakdown, he could not file the written statement on that day and he was set exparte. The trial Court has clearly held in the order that even after the

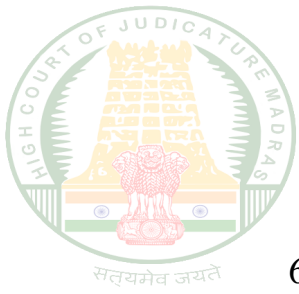


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petitioner has been set exparte on 18.06.2012 and the exparte decree was passed on 28.06.2013, the application to set aside the exparte decree has been filed only in the year 2017 along with a delay of 1440 days. Be that as it may. Now the reason assigned is that he met with an accident and he sustained injuries. To substantiate the said contention, not even a single scrap of paper has been filed to show that he suffered any injuries. Without any evidence, mere pleading for the purpose of the case will not help the revision petitioner in any manner. In the absence of any evidence, as a matter of right such a huge delay cannot be condoned.

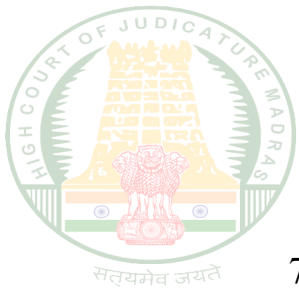
5. Though the word “sufficient cause” under Section 5 of the Limitation Act is elastic enough to enable the Court to apply law in a meaningful manner to subserve the ends of justice, the fact remains that, to enlarge such discretion to the parties to advance substantial justice, the reasons assigned by the parties should be true and justifiable and there must be sufficient cause.



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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]***.



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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.

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.



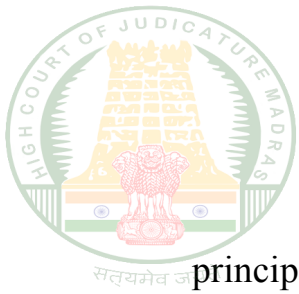
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33. Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel 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 petitioner cannot seek indulgence of this Court for his negligence in not prosecuting the matter. Having allowed the suit to be decreed *ex parte*, the petitioner has waken up from a deep slumber for more than four years, and now seeks to unsettle the settled issues. The only reason assigned by the petitioner is that he had met with an accident and he sustained injuries.

9. 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



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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 the lackadaisical attitude should be curbed at the initial stage itself. Initially, the petitioner filed an application to set aside the exparte decree along with an application to condone the delay of 1440 days. Even after dismissal of the above application, this Civil Revision Petition has been filed along with a petition to condone the delay of 2193 days in preferring the revision. The reason stated by the petitioner to condone such a huge delay is that he had met with an accident and sustained injury. The petitioner has not filed any documents in support of his contentions. Hence, this Court is of the view that such a reason, in the view of this Court, is invented only for the purpose of filing the present application.

10. Once the delay has not been explained to the satisfaction of the Court, as a matter of right, the petitioner cannot seek to condone his negligence. Even for the Court to extend its discretion to lien in favour of a party, he/she should assign *bona fide*, justifiable and probable reasons. The



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parties who seek such a relief must show sufficient cause. The petitioner has not shown any sufficient cause to condone such a huge delay. Hence, this Court is of the view that the order of the trial Court dismissing the application, requires no interference.

11. Accordingly, this Civil Miscellaneous Petition is dismissed.

Consequently, the Civil Revision Petition is rejected. No costs.

01.07.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

1. The District Munsif,
Harur.



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N. SATHISH KUMAR, J.

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