



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Order reserved on : 16.09.2025

Order pronounced on : 26.09.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.Nos.3471, 3473, 3474 & 3476 of 2025

& CMP.Nos.18818, 18821, 18823 & 18836 of 2025

Ashok Kumar

... Petitioner
in CRP.Nos.3471 & 3474 of 2025

Goutham

... Petitioner
in CRP.Nos.3473 & 3476 of 2025

Vs.

K.S.M.Mohammad Husain

... Respondent
in all CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order and decree in RCA.Nos.7, 26, 8 & 25 of 2024 dated 28.04.2025 on the file of the VII Rent Control Appellate Authority, Small Causes Court, Chennai, confirming the fair and decretal order in M.P.No.1 & 2 of 2022 in RCOP.Nos.718 & 719 of 2017 dated 19.10.2023 on the file of the XII Small Causes Court, Chennai.



WEB COPY



For Petitioner : Mr..S.R.Rajagopal
Senior Counsel
for Mr.S.Sandeep in all CRPs

For Respondent : Mr.N.Ishtiaq Ahmed in all CRPs

COMMON ORDER

These revision petitions have been filed to set aside the order and decree in RCA.Nos.7, 26, 8 & 25 of 2024 dated 28.04.2025 on the file of the VII Rent Control Appellate Authority, Small Causes Court, Chennai, confirming the fair and decretal order in M.P.No.1 & 2 of 2022 in RCOP.Nos.718 & 719 of 2017 dated 19.10.2023 on the file of the XII Small Causes Court, Chennai.

2.The revision petitioners are tenants. The revision petitioners were set ex-parte in the eviction proceedings and they have taken out applications for setting aside the ex-parte order. The said applications filed seeking to set aside the ex-parte orders came to be dismissed for non-prosecution and in order to restore those applications, an application was filed seeking condonation of delay of 240 days. On contest, the applications came to be dismissed by the Rent Controller and the appeals filed before the Appellate

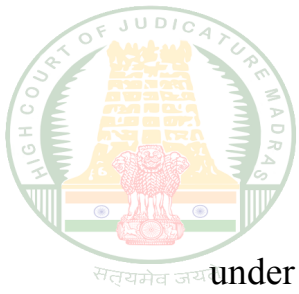


WEB COPY

Authority in RCA.Nos.7, 8, 25 & 26 of 2024 also came to be dismissed, confirming the orders of the Rent Controller. Aggrieved by the concurrent findings, the tenants are before this Court by way of the above revisions.

3.I have heard Mr.S.R.Rajagopal, learned Senior Counsel for Mr.S.Sandeep, learned counsel for the petitioner in all the revisions and Mr.N.Ishtiaq Ahmed, learned counsel for the respondent in all the revisions.

4.Mr.S.R.Rajagopal, learned Senior Counsel for the petitioner, in all the revisions would submit that no doubt there has been a delay of above 715 days in seeking to file the restoration application, but however, in view of the intervening Covid-19 period, the delay was actually only 240 days, if the period exempted by the Hon'ble Supreme Court is taken into account. The learned Senior Counsel would submit that the petitioners came to know about the proceedings only after they received notice in the execution petition and according to the learned Senior Counsel, the petitioners are not in default in payment of rents and they have been promptly paying the rents and they have substantial and valid defence to meet the grounds of eviction



WEB COPY

under 10(2)(i) (willful default) and 10(2)(vii) (cease to occupy).

5.The learned Senior Counsel would further state that the litigant should not be prejudiced for the fault of the counsel and especially when the tenants are not in any default in payment of rent. He would pray for an opportunity being given to the petitioners to defend the eviction petition on merits. He would also contend that any suitable directions may be given for disposal of the RCOP on merits and that the petitioners would co-operate with the same. He would also state that the Courts have not even rendered a finding that there is any malafide action on the part of the petitioners or that they are attempting to protract the proceedings. He would also place reliance on the following decisions:

1.Mool Chandra Vs. Union of India, reported in (2025) 1 SCC 625.

2.Vijaya Laxmi Vs. V.Vijaya Kumar, reported in 1995 (2) A.P.L.J 275 (HC).

3.Ram Nath Sao @ Ram Nath Sahu and others Vs. Gobardhan Sao and others, reported in (2002) 3 SCC 195.

4.Rafiq and another Vs. Munshilal and another, reported in (1981) 2 SCC 788.

6.Per contra, Mr.N.Ishtiaq Ahmed, learned counsel for the respondent



WEB COPY

in all the revisions, would firstly dispute the contention of the petitioners that they have paid all rents and that they are not in any default. On the merits of the application, the learned counsel for the respondent would contend that the petitioners have not shown any sufficient cause and not once, but twice, they have chosen to blame their counsel and such a conduct of the litigant should not be encouraged by the Court. He would rely on the following decisions in support of his contention.

1.C.Raghupathy Vs. C.Govindan and others, reported in 2009 (1) CTC 319.

2.H.Guruswamy and others, reported in A.Krishnaiah since deceased by LR's, in Civil Appeal No.317 of 2025 dated 08.01.2025.

3.Thirunagalingam Vs. Lingeswaran and another, reported in SLP(C)No.17575 of 2023 dated 13.05.2025.

4.State of Madhya Pradesh Vs. Ramkumar Choudary, reported in Spl.Leave Petition (C) Diary No.48636 of 2024 dated 29.09.2024.

7.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioners and the learned counsel for the respondent.

8.The respondent has initiated eviction proceedings under the



WEB COPY

erstwhile Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

Eviction was sought on the ground of willful default in payment of rents and ceasing to occupy the petition premises. Though the petitioners entered appearance in the RCOP proceedings, for not filing counter affidavit, they were set ex-parte and an order of eviction came to be passed on 13.12.2017. The petitioners have taken out an application to set aside the order of eviction and subsequently, the said applications came to be dismissed for default on 25.10.2019.

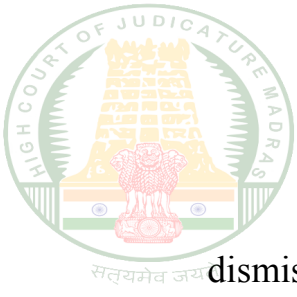
9. According to the petitioners, they were in dark and they were not aware of the dismissal of the applications filed to set aside the ex-parte order of eviction and only when they received notice in the execution petition on 15.03.2020, they have contacted their counsel and came to know that even on 25.10.2019 the applications to set aside the ex-parte order of eviction have been dismissed for default. In order to restore the said applications, miscellaneous petitions were taken out, contending that they were entitled to exemption of the intervening Covid period from 15.03.2020 to 28.02.2022. The petitioners claimed that the delay is only 240 days and



WEB COPY

even though they were entitled to exclude the same, in order to avoid any technical objection, the petitioners have sought for condonation of the entire period of delay of 955 days. In the said application for condonation of delay, the petitioners have stated that after initially suffering an ex-parte order of eviction on 13.12.2017, they had filed an applications to set aside the ex-parte of eviction.

10.However, it is claimed that their counsel had some health issues and he was not attending the proceedings and his junior also was in the family way and she was also not attending the proceedings, which led to dismissal of the applications to set aside the ex-parte order on 25.10.2019. However, on receipt of notice in the execution petition alone, the petitioners came to know about what had transpired and immediately they have engaged a new counsel and entered appearance in the execution petition on 06.04.2022. It is also contended by the petitioners that they were not having any of the earlier case papers with them and they were helpless and therefore, they requested their new counsel to look into the matter and bail them out and with best efforts, the petitioners came to know about the



WEB COPY

dismissal of the applications for setting aside the ex-parte order and were necessitated to take out the present applications to restore the applications that were dismissed for non-prosecution on 25.10.2019, along with the application for condonation of delay of 955 days, in restoring the said applications that were dismissed for non-prosecution.

11.The applications were strongly resisted by the respondent landlord. On enquiry, the Rent Controller found that the petitioners have been careless and negligent in conducting the case and that the delay has not been satisfactorily explained and that they cannot escape the delay by blaming the previous counsel. Challenging the said orders of the Rent Controller, appeals were also filed before the Appellate Authority. The Appellate Authority, concurring with the findings of the Rent Controller, held that the petitioners were not entitled to count the Covid period which was declared by the Hon'ble Supreme Court has been exempted from the limitation period and that the petitioners have not adduced satisfactory reasons for condonation of delay.



WEB COPY

12.The Appellate Authority has also approved the findings of the Rent Controller that the petitioners have been careless and negligent. The Appellate Authority has independently found that the delay is inordinate and not properly explained and that despite non-prosecution, the petitioners cannot be allowed to take advantage alleging mistake of the counsel.

13.Firstly, with regard to delay as to whether it is 955 days or 240 days, the order dismissing the applications to set aside the ex-parte order of eviction, orders came to be passed on 25.10.2019. Therefore, the limitation clock started ticking even from the said date. The subsequent intervening Covid period, therefore, cannot come to the rescue of the revision petitioners and this aspect has been rightly dealt with by both the Courts and coming to the conclusion that the delay is only 955 days and not 240 days. I do not see any perversity or infirmity in the said findings warranting interference.

14.Coming to the reasons assigned by the revision petitioners, they



WEB COPY

blame their counsel who was entrusted with the matter at the first instance.

According to the petitioners, their counsel has not properly followed up the case and ensured that counter was filed in the RCOP. I am unable to countenance the said excuse projected by the petitioners. The petitioners are the litigants, who have been slapped with eviction proceedings and it is for the petitioners to have followed up the matter diligently with their advocate. Even according to the petitioners, they suffered at the hands of the first advocate, who did not file a counter and after ex-parte eviction orders came to be passed, they have filed applications to set aside the ex-parte order of eviction. At least, from that point of time onwards, the petitioners should have exercised care and caution and ought to have been vigilant in ensuring that there is no lapse on their part. Further, the petitioners were fully aware of the ex-parte order of eviction, even when they filed an application to set aside the ex-parte order of eviction. Therefore, the contention that they were taken by surprise, after receiving notice in the EP proceedings and that they were in dark, can never be countenanced.

15. Though it is contended by the learned Senior Counsel for the

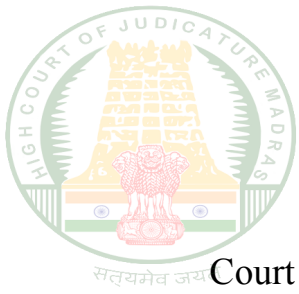


WEB COPY

petitioners that the petitioners have valid defence and that they are not in any arrears of rent, the respondent/landlord denies the fact that the petitioners are not in any arrears. However, at this stage, deciding an application for condonation of delay, it is not necessary for me to dwell into the merits of the dispute.

16.The Hon'ble Supreme Court, in *H.Guruswamy's case*, (stated supra), has held that the length of delay is a relevant matter which the Court must take into consideration while considering whether the delay should be condoned and that while considering the plea for condonation of delay, the court must not start with the merits of the main matter, but first, ascertain the bonafides of the explanation offered by the party seeking condonation and that only if sufficient cause is assigned by the litigant and the opposition of the other side is equally balanced, then alone the Court may bring into aid the merits of the matter for the purposes of condoning the delay.

17.In *Thirunagalingam's case*, (stated supra), the Hon'ble Spreme

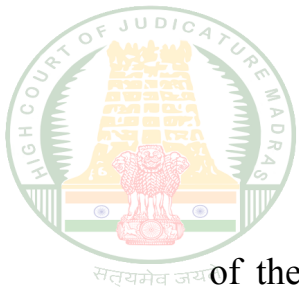


WEB COPY

Court reiterated that while considering the plea of condonation of delay, the first and foremost duty of the court is to first ascertain the bonafides of the explanation offered by the party seeking condonation, rather than starting with the merits of the main matter and that court cannot condone the delay merely as an act of generosity and that the pursuit of substantial justice must not come at the cost of causing prejudice to the opposite party.

18. In *State of Madhya Pradesh's case*, (stated supra) the Hon'ble Supreme Court following the ratio laid down in *Union of India Vs. Jahangir Byramji Jeejeebhoy (D) through his legal heir*, reported in 2024 SCC Online SC 489, held that delay should not be excused as a matter of generosity and when no sufficient cause has been shown, for seeking condonation of delay and the inordinate delay not being explained satisfactorily, the refusal by the High Court to condone delay was held to be proper.

19. In *Vijaya Laxmi's case*, (stated supra) the Hon'ble Division Bench



WEB COPY

of the Andhra Pradesh High Court found on facts that the applicant who sought for condonation of delay was not able to attend the court because she was suffering from Typhoid, which was also established by production of medical certificate and therefore she was prevented by sufficient cause from appearing in the matter, finding that even if the advocate had appeared, he would not have proceeded with the matter, in view of the illness of the party. I do not see how this decision would apply to the facts of the present case.

20. In *Mool Chandra's case*, (stated supra) the Hon'ble Supreme Court held that the length of delay would be required to be considered while examining the plea of condonation of delay and if cause for delay falls within the four corners of the sufficient cause, then irrespective of length of delay, the same deserves to be condoned. In fact, even in the said decision, the Hon'ble Supreme Court has held that if the cause shown is insufficient, irrespective of period of delay, the same would not be condoned.

21. In *Ram Nath Sao's case*, (stated supra) the Court was dealing with



WEB COPY

applications for condonation of delay in taking steps for substitution of heirs and legal representatives under Order XXII of CPC and in such circumstances, the Hon'ble Supreme Court held that such provisions should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafides is imputable to a party. The Hon'ble Supreme Court further held that in a particular case, whether explanation furnished would constitute sufficient cause or not, will be dependent upon facts of each case and there cannot be any straitjacket formula for accepting or rejecting the explanation offered for the delay. The Hon'ble Supreme Court further held that acceptance of explanation furnished should be the rule and refusal, an exception, more so, when no negligence or inaction or want of bonafides can be imputed to the defaulting party. This decision was rendered in the context of brining on record the legal representatives of a deceased party to the suit.

22. In *Rafiq's case*, (stated supra), which was relied on by the Division Bench of the Andhra Pradesh High Court, the Hon'ble Supreme Court held that the party should not suffer for inaction and omission on the part of the



WEB COPY

23. Taking into consideration the principles enunciated by the Hon'ble Supreme Court, I find that there is no second opinion with regard to the application for condonation of delay being rejected, if there is lack of bonafides on the part of the applicant who seeks condonation of delay or when there is inaction and if sufficient cause is not shown.

24. As held by the Hon'ble Supreme Court, the courts, while adjudicating an application for condonation of delay, should be primarily concern with the explanation offered for the delay. Here, it is admittedly seen that the petitioners have been careless and did not diligently follow up the matter, despite suffering an ex-parte eviction order. It is probably justifiable for the petitioners to blame their erstwhile counsel for not diligently following up the case and filing counter. However, the same excuse has once again been put forth, even for dismissal of applications filed for restoring the miscellaneous petitions filed to set aside the dismissal of the applications to set aside the ex-parte orders of eviction.



WEB COPY

25. The petitioners, being tenants, who were well aware of the fact that they have suffered an ex-parte eviction order, cannot sit back and relax and contend that they were kept in dark and that they were not informed by their counsel. Moreover, it has also become a routine practice for such affidavits being filed, blaming erstwhile counsel. I had an occasion in *Chitravel and another Vs. Jothimani*, reported in 2024 (2) CTC 197, where I held as follows:

“13. Coming to the reason cited by the respondent in his application for condonation of delay of close to 5 years, they are that the trial Court Advocate did not inform him about the passing of the decree. Clearly, the respondent has played a blame game, accusing his trial Court Advocate of not informing him about the proceedings, especially, the factum of the suit being dismissed, after trial. As already referred herein above, this Court has consistently held that the negligence of the Advocate cannot be held to be a sufficient or just cause to entertain a condonation of delay application, as equally a duty is cast on the litigant, who is supposed to diligently follow up his case or her case with the lawyer. One another alarming factor is that such affidavits accusing lawyers is sadly gaining popularity. It is not a healthy trend. Behind the back of the lawyer who conducted the case, allegations are made in the affidavit, by engaging another counsel and citing the said reason that the Advocate or the Advocate's clerk did not inform the party, applications are being routinely filed before the court, seeking condonation of delay. Only in order to assess the bonafides or truth in the averments and allegations made in this regard, the Courts are constrained put riders on such applications by

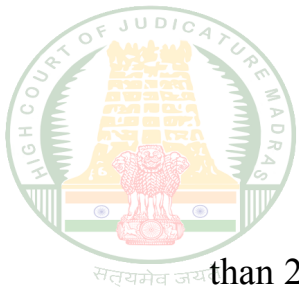


WEB COPY



insisting of production of any complaint made by the litigant against the Advocate before the Bar Council. Practically, it is understandable that in all cases it may not be possible for the litigant to approach the Bar Council and file complaint against the Advocate for various reasons. Even lawyers, who are engaged subsequently, would be embarrassed to take such action. However, the applicant casually blames the counsel who conducted the trial, especially behind the Counsel's back and gets a favourable order from the Court, condoning huge and inordinate delay. It is one thing to state that no prejudice would be caused to the petitioners if the delay is condoned and the appeal is heard on merits. When such a reason is thrust before the Court, it virtually goes unchallenged as the opposite party is not privy to the advocate-client relationship of the applicant. However, when the applicant is unable to show any just or sufficient cause and the only reason cited for the delay of approximately 5 years is blaming his advocate, then the Court should not entertain such an application.”

26. It is not even the case of the petitioners that they have lodged a complaint against the erstwhile counsel who are being blamed for not following up the proceedings and allowing an ex-parte eviction order to be passed and subsequently, for allowing dismissal of the applications filed to set aside the ex-parte order. The delay of 955 days is also inordinate and the petitioners have not satisfactorily explained the said delay and I have already found that the shelter attempted to be taken by them under the exempted period of limitation during Covid 19 pandemic also does not accrue to their advantage and the delay is in fact 955 days, which is more



WEB COPY

than 2 ½ years.

27.The petitioners are admittedly 'once bitten, twice shy' and if really their erstwhile counsel had let them down, as prudent litigants, they would not sit back and not follow up the matter, despite knowing that an ex-parte eviction order has been passed and the consequences which follow are serious, resulting in even dispossession of the petitioners from the tenanted premises. In the light of the above, I do not find that the Rent Controller and the Appellate Authority have committed any error in refusing to condone the delay of 955 days and there is no merit in the revision petitions.

28.In fine, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

26.09.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
ata



WEB COPY

- To
- 1.The VII Rent Control Appellate Authority, Small Causes Court, Chennai.
 - 2.The XII Small Causes Court, Chennai.



WEB COPY



P.B. BALAJI,J.

ata

Pre-delivery order made in
CRP.Nos.3471, 3473, 3474 & 3476 of 2025
& CMP.Nos.18818, 18821, 18823 & 18836 of 2025

26.09.2025