

C.R.P.No.2786 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.2786 of 2023

and

C.M.P.No.17211 of 2023

1. Parvatha Konar (died)
2. Chinnapappa
3. Sundaramoorthy
4. Renu

... Petitioners

Vs.

1. G.Moorthy
2. Mani Pillai
3. Ramesh
4. The Panchayath Board President,
Adiannamalai Village & Post,
tiruvannamalai Taluk & District.
5. The Block Development Officer,
Block Development Office,
Tiruvannamalai.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.06.2023 passed in I.A.No.536 of 2021 in O.S.No.152 of 2015 on the file of the Additional District Munsif, Tiruvannamalai.



WEB COPY



C.R.P.No.2786 of 2023

For Petitioners : M/s.S.Suseela Devi
For Respondents : Mr.V.T.Narendiran (for R1 & R3)
Mr.B.Tamil Nithi,
Additional Government Pleader
(for R4 & R5)
No appearance (for R2)

ORDER

Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the fourth and fifth respondents and the learned counsel for the first and third respondents and perused the materials available on record.

2. The learned counsel for the petitioners states that the father of the petitioners originally filed a suit in O.S. No. 152 of 2015 before the Additional District Munsif, Tiruvannamalai, and the said suit was filed for declaration of the title of the father of the petitioners relating to the suit property. Pending the suit, the father of the petitioners died on 12.10.2018, and as no steps were taken to bring on record the legal representatives of the sole plaintiff, the suit was dismissed as abated on 22.07.2019.



C.R.P.No.2786 of 2023

WEB COPY

3. He would further state that the petitioners were totally in the dark and never knew about the suit filed by their father. However, in the year 2021, when the first to third respondents entered the suit property and started filling up the property with mud, the petitioners made enquiries and came to know about the fact that their father had filed the suit. Immediately, the petitioners took out an application to set aside the abatement and also necessary applications to implead themselves in the suit, as there was delay; I.A. No. 536 of 2021 was filed to condone the delay of 979 days in filing the application to set aside the abatement.

4. The said application was resisted by respondents 1 to 3, and the Trial Court dismissed the application, finding that there was a Criminal Revision Petition in the year 2015, and this Court had passed an order dated 02.07.2015. In the said Criminal Revision Petition, the petitioners' father was the respondent, along with two of the petitioners herein, and the petitioners had appeared through counsel, and subsequently, the Criminal Revision Petition was withdrawn. Therefore, the Trial Court proceeded to hold that the petitioners cannot feign ignorance of the suit filed by the father of the petitioners. The mere fact that two of the



C.R.P.No.2786 of 2023

WEB COPY

petitioners were respondents in the Criminal Proceedings in the year 2015 cannot lead to an irrefutable conclusion that the petitioners were aware of the suit filed by their father before the Civil Court.

5. In fact, the learned counsel for the petitioners also points out that only pursuant to the orders passed in the Criminal Revision Petition, the petitioners' father had filed the said suit on account of interference attempted by respondents 1 to 3 herein. The learned counsel for the petitioners has also relied upon the decision of the Hon'ble Supreme Court of India in ***N. Balakrishnan Vs. M. Krishnamurthy***, reported in ***(1998) 7 SCC 123***, wherein the Hon'ble Supreme Court held that the Court should approach an application for condonation of delay liberally, unless otherwise, there are *mala fides* or wilful negligence on the part of the applicant seeking condonation of delay. The Hon'ble Supreme Court of India further held that the length of delay is immaterial, and the normal rule is that the Court should condone the delay.

6. In the facts of the present case, the petitioners have asserted that they had no knowledge of the suit filed by their father, and only when the



C.R.P.No.2786 of 2023

WEB COPY

contesting defendants in the suit attempted to fill the suit property with mud, they came to know about the suit having been filed by their father, and on enquiry, they further came to know the suit had been dismissed as abated, recording the demise of the petitioners' father on 12.10.2018.

7. Applying the ratio laid down by the Hon'ble Supreme Court of India, I do not find any wilful negligence or dilatory tactics on the part of the petitioners. In fact, the petitioners are only the legal representatives of the plaintiff, who wanted to establish the title of the suit property by seeking relief of declaration and consequential relief. The only reason on which the application has been dismissed by the Trial Court is that two of the petitioners were parties in the criminal proceedings. I am of the opinion that this is not a ground to disbelieve the case of the petitioners that they were in the dark about the suit having been filed by their father.

8. In view of the fact that the plaintiff seeks to prosecute the suit for declaration of title, as substantial rights of the parties are involved, I am inclined to adopt a liberal approach and condone the delay. Accordingly, the impugned order dated 05.06.2023 in I.A. No. 536 of



C.R.P.No.2786 of 2023

WEB COPY

2021 in O.S. No. 152 of 2015 is hereby set aside. The Trial Court is directed to dispose of other connected applications for setting aside the abatement and bringing on record the petitioners as LR's of the plaintiff, within a period of four weeks from the date of receipt of a copy of this order.

9. In the result, this Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

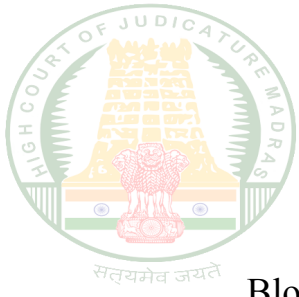
08.10.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
kv

To

1. The Additional District Munsif, Tiruvannamalai.
2. The Panchayath Board President,
Adiannamalai Village & Post,
tiruvannamalai Taluk & District.
3. The Block Development Officer,

6/8



C.R.P.No.2786 of 2023

Block Development Office,
Tiruvannamalai.



WEB COPY



C.R.P.No.2786 of 2023

P.B.BALAJI, J.

kv

C.R.P.No.2786 of 2023

08.10.2025