



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:17.11.2025

Pronounced on:28.11.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.156 of 2022

and

CMP. No.847 of 2022

K.Logeshkumar

Petitioner(s)

Vs

1.N.Ravichandran (Died)

2.S.Malarkannan

3.R.M.Subramaniam

4.R.Santhini

5.R.Hanishree

(R4 and R5 are brought on record as Lrs of the
deceased R1 vide Court order dated 09.07.2025)

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the exparte judgment and decree dated 26.09.2013 made in O.S. No.75 of 2013 on the file of the learned Second Additional District and Sessions Court, Tiruppur.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.P.Valliappan,
Senior Counsel for
Mr.K.S.Karthik Raja for R2 and R3
Mr.V.P.Senguttuvel,
Senior Counsel for
Mr.K.R.Nishanth for R4 and R5



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ORDER

The revision petitioner is the defendant in suit for specific performance in O.S. No.75 of 2013 on the file of the learned II Additional District and Sessions Court, Thiruppur. The revision petitioner challenges the exparte decree passed in the said suit on 26.09.2013, invoking the extraordinary revisional powers available in this Court under Article 227 of the Constitution of India.

2. I have heard Mr.N.Manoharan, learned counsel for the revision petitioner and Mr.P.Valliappan, learned Senior Counsel for Mr.K.S.Karthik Raja. learned counsel for the respondents 2 and 3 and Mr.V.P.Senguttuvel, learned Senior Counsel for Mr.K.R.Nishanth, learned counsel for the respondents 4 and 5. The first respondent in the revision is no more and his heirs have already been impleaded, pending the revision.

3. Mr.N.Manoharan, learned counsel for the revision petitioner inviting my attention to the judgment passed in O.S. No.75 of 2013 would submit that the Trial Court has not followed the mandate of the Order XX, Rule 4 of the Code of Civil Procedure, 1908, (in short 'CPC')



and moreso, the suit being one for specific performance, the Trial Court ought to have given findings with regard to readiness and willingness before granting a decree in favour of the plaintiffs. The learned counsel Mr.N.Manoharan, would therefore state that the said judgment and decree is no judgment in the eye of law and nothing but a nullity, which can certainly be interfered with under Article 227 of the Constitution of India.

4. Mr.N.Manoharan, learned counsel has also fairly brought to my notice that though an Application was filed by the petitioner for condonation of delay in setting aside the exparte decree (delay of 945 days) and the said Application was dismissed and the said order was also confirmed by the Court in CRP.(NPD). No.4259 of 2019, by order dated 29.06.2021. It is the contention of the Mr.N.Manoharan, learned counsel that when the Trial Court has passed a non-est judgment, which has no validity in the eye of law, the earlier attempt to set aside the decree will not preclude the petitioner from challenging the exparte decree directly under Article 227 of the Constitution of India. The learned counsel, in support of his contentions, has relied on the following decisions:-



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(i) *Meenakshisundaram Textiles Vs. Valliammal Textiles Limtied*, reported in 2011 (3) CTC 168;

(ii) *Chitrakala Vs. P.Mahesh and others*, reported in 2013 (4) CTC 545;

(iii) *K.Balakrishnan Vs. S.Dhanasekar*, reported in (2017) SCC online Mad 30659;

(iv) *Ramachandran and Ors Vs. Balakrishnan and Ors*, reported in MANU/TN/4930/2020;

(v) *Shanthimalai Trust Represented by its Managing Trustee Vs. Arunachala Education and Environment Development Trust (AEED Trust) rep by its Managing Trustee and others*, reported in 2020 SCC Online Mad 4781; and

(vi) *Brahmand Farm Lands Limited, Rep. By its Director, V.K.Somakakumar Vs. K.Venkatesan*, reported in 2021 SCC Online Mad 1078.

5. Per contra, Mr.P.Valliappan, learned Senior Counsel for the respondents 2 & 3 would contend that the issue of challenging a non speaking judgment by way of revision under Article 227 of the Constitution of India is no longer *res integra*, in view of the decisions of this Court in *R.Rasappan Vs. D.Rajalakshmi*, reported in 2025 (4) CTC 337, and *P.Sureshkumar Vs. M.Dhandapani and others*, in CRP. Nos.3801 of 2025 dated 07.11.2025. Though the learned Judge, who had passed the order in *Rasappan's* case had earlier taken a view that Article



227 can be invoked to challenge a judgment passed without following the mandate of Order XX Rule 4 CPC, subsequently, revisiting the earlier view taken by himself, the learned Judge held in *Rasappan's* case, that the fact that the judgment is improper on account of being a non-speaking judgment cannot be a ground to invoke Article 227 of the Constitution of India and set aside the exparte judgment and decree. The said view was quoted with approval by me in *P.Sureshkumar's* case (referred herein supra).

6. Mr.V.P.Senguttuvel, learned Senior Counsel for the respondents 4 and 5 would also make submissions on the same grounds on which Mr.P.Valliappan, learned Senior Counsel sought for dismissal of the revision. The learned Senior Counsel would submit that having failed in an attempt to set aside the exparte judgment and revision filed against the dismissal of the Section 5 application also being dismissed by this Court, it is not open to the petitioner to invoke the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India.

7.I have carefully considered the submissions advanced by the learned counsel on either side.



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8. Coming to the decision that had been relied on by Mr.N.Manoharan, learned counsel for the petitioner in *Meenakshisundaram Textile's* case, it was already considered by me in *P.Sureshkumar's* case, where I found that the Hon'ble Division Bench in *Meenakshisundaram Textile's* case dealing with an Application to set aside the exparte decree, where there is no bar for the Court to look into whether the Trial Court has complied with the mandate of Order XX, Rule 4 CPC as held in *Rasappan's* case (referred herein supra).

9. In *Chitrakala's* case, (referred herein supra) the Hon'ble Division Bench of this Court finding that the Trial Court had decreed the suit based on averments in the plaint without any oral or documentary evidence being adduced by the plaintiff, chose to remand the matter to the Trial Court. I do not see how this decision will come to the aid of the revision petitioner.

10. In *Balakrishnan's* case, (referred herein supra), this Court, while deciding a Second Appeal under Section 100 CPC, found that the Trial Court while passing the exparte judgment did not satisfy the requirement of Section 2(9) of CPC, and the Second Appeal was arising



out of a challenge by way of First Appeal to the exparte decree.

Therefore, this decision also will not help the case of the revision petitioner.

11. In *Ramachandran's* case, (referred herein supra) this Court following the ratio laid down by the Hon'ble Division Bench in *Meenakshisundaram Textile's* case, proceeded to invoke powers under Article 227 of the Constitution of India and set aside the judgment and decree passed by the Trial Court. A similar view was taken by this Court in *Shanthimalai Trust's* Trust case. Though *Ramachandran's* case, also arising out of a case of Section 5 Application under the Limitation Act, 1963, in view of the decision in *Rasappan's* case and also the discussions made by me with regard to scope of Section 5 petition and the consideration, in such an Application being sufficient cause to be shown by the applicant, the violation of mandate of Order XX Rule 4 CPC, cannot be canvassed as a ground for seeking condonation of delay. In view of the march of law on the subject, I am unable to follow the ratio laid down in *Ramachandran's* case.



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12. In *Brahmand Farm Land's* case, (referred herein supra), also it was a case where the revision arose out of an Application for condonation of delay and following *Meenakshisundaram Textile's* case, this Court held that the judgment was not valid in the eye of law and a suit for specific performance cannot be allowed, merely because of the default of defendant, but it should be adjudicated on merits. All these judgments subscribed to the earlier view, prior to *Rasappan's* case, where this Court was of the view that even in a condone delay application, the issue of non compliance of Order XX Rule 4 CPC can be considered. However, with the decision of *Rasappan's* case recently in July, 2025, it is now permissible for a Court to look into a complaint regarding violation of mandate of Order XX Rule 4 CPC only in an Application to set aside the exparte decree, or by way of appeal/review and all such proceedings would be subject to law of limitation and even in the case of non speaking judgments, this Court exercising powers under Article 227 of the Constitution of India cannot set aside decrees, as it would very likely open the pandora's box and lead to spiking litigation.

13. Even in the present case, I find that the petitioner had already attempted to have the delay in approaching the Court to set aside the



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exparte decree condoned and the said attempt was also unsuccessful, not only before the Trial Court but also before this Court and it is thereafter that the petitioner has filed the present revision petition under Article 227 of the Constitution of India.

14. In view of the above, I do not find any merit in the Civil Revision Petition and the exparte decree is not liable to be set aside invoking the extraordinary powers under Article 227 of the Constitution of India. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

28.11.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The Second Additional District and Sessions
Judge, Tiruppur.



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P.B.BALAJI, J.,

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Pre-delivery order in
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