



C.R.P.No.5386 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.No.5386 of 2024
and C.M.P.No.29973 of 2024

V.Thiyagarajan

... Petitioner

-Vs-

G.K.Jaagathguru

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair order and final order in I.A.No.2 of 2022 in I.A.No.240 of 2021 in O.S.No.188/2019 dated 15.02.2024 on the file of Principal District Judge, Villupuram.

For Petitioner	:	Ms.E.Harini for Ms.R.Abirami
For Respondents	:	Mr.N.Suresh

ORDER

Challenge has been made to the order dated 15.02.2024 made in I.A.No.2 of 2022 in I.A.No.240 of 2021 in O.S.No.188/2019, rejecting the application to condone the delay of 235 days in filing an application for restoration of I.A.No.240 of 2021, which was dismissed for default on 09.03.2022.

2. The background of the case is that the respondent herein filed a suit for



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specific performance based on the agreement said to have been executed on 13.03.2019 in favour of the petitioner. As the written statement has not been filed in the suit, the petitioner was set exparte and an exparte decree has been passed on 04.11.2019. He has filed an application under Section 5 of the Limitation Act to condone the delay of 420 days. When the above application was posted for giving notice of hearing to the other side, as the notice for hearing has not been given, the said application has been dismissed for default on 09.03.2022. Therefore, to restore the said application the present application in I.A.No.240 of 2021 has been filed with a delay of 235 days. The same has been dismissed on the ground as sufficient reason for the delay has not been stated.

3. Heard the learned counsel appearing for both sides and have perused the materials placed on record.

4. Though the delay at each stage has not been properly explained, the petitioner has examined himself and has given reasons for not filing the application immediately. Though the reasons are not convincing, the fact remains that the same itself is not a ground to reject the application, thereby denying the substantive rights of the parties to agitate the matter on merits. Moreover, since the suit is one for specific performance, this Court is of the view that the rights of the parties to property should be adjudicated only on merits.



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5. In that view of the matter, this Court is inclined to extend the benefit to the petitioner by adopting a liberal approach. Accordingly, the delay of 235 days is condoned subject to the payment of costs of Rs.15,000/- (Rupees Fifteen Thousand only) payable by the petitioner to the respondent within a period of one month from the date of receipt of a copy of this order. On such payment, the application shall be restored and the trial Court shall decide the main application on merits and proceed further in the matter.

6. With the above observations, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2025

Index : Yes/No
Neutral Citation : Yes/No
KST

To

The Principal District Judge
Villupuram.



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N. SATHISH KUMAR, J.

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