



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-08-2025

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THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 3505 of 2025

1. C.Mohankumar
S/o. Shenkoda Mudaliyar, D.No.1032,
Vadaku Theru, Kurupanayakanpalayam,
Urachikottai Village, Bhavani Taluk,
Erode District - 638 003.

Petitioner(s)

Vs

1. S.Parvathy
W/o. Subburathinam, D.No.101,
Vadaku Theru, Kurupanayakanpalayam,
Urachikottai Village, Bhavani Taluk,
Erode District - 638 005.

Respondent(s)

PRAYER Civil Revision Petition filed under Article 227 of Constitution of India to issue direction directing the Principal District Munsif Court, Bhavani to number the Interlocutory Application in I.A.No.Unnumbered of 2023 dated 11.01.2023 filed in O.S.No.152 of 2017 on the file of the Principal District Munsif Court, Bhavani instead of returning the I.A.No.Unnumbered of 2023 on various dates on 11.01.2023, 06.03.2023, 05.04.2023, 25.08.2023, 20.10.2023, 29.11.2023.



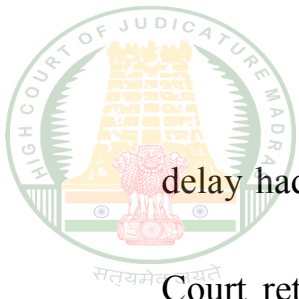
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For Petitioner(s): Mr.D.Gopal for Mr.S.Ananth

ORDER

Challenge has been made to the returning of the application filed to condone the delay of 449 days in filing the lodgement schedule, even before numbering the application, in the present application has been filed.

2. The suit in O.S.No.152 of 2017 has been filed by the revision petitioner for specific performance. An exparte decree has been passed in the suit on 25.07.2019 and the defendant was directed to receive balance sale consideration from the plaintiff and execute the sale deed within a period of three months. The grievance of the petitioner is that though he had contacted the defendant to execute the sale deed, he has not come forward to execute the sale deed. Thereafter, due COVID pandemic, the petitioner was not able to contact his counsel and take further steps for execution of the sale deed. Subsequently, the petitioner was affected by jaundice and he was taking treatment. Hence, the



delay had occurred and the same is not wilful nor wanton. However, the trial

Court returned the application even before numbering the same. Hence, the

present Civil Revision Petition.

3. It is relevant to note that an exparte judgment has been passed in the suit on 25.07.2019. The contention of the petitioner is that he was suffering from jaundice and thereafter, he was not able to contact his counsel to file lodgement schedule due to COVID pandemic. He had further stated that the defendant has not come forward to receive the balance sale consideration and execute the sale deed in his favour. Hence, seeks to condone the delay and provide an opportunity to the petitioner for execution of the sale deed in his favour.

4. It is relevant to note that the Hon'ble Apex Court in the case of ***Robin Thapa vs. Rohit Dora*** reported in ***(2019) 7 SCC 359*** held that a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The



cause of justice does require that as far as possible, adjudication be done on merits.

5. Further, the Hon'ble Supreme Court, in ***Collector, Land Acquisition, Anantnag and others v. Mst.Katiji and others*** reported in (1987) 2 SCC 107, followed in ***Raheem Shah and another v. Govind Singh and others*** reported in (2023) 18 SCC 746, has held as follows :

“3.The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:



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“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

6. The contention of the petitioner is that due to covid pandemic, he was not able to contact his counsel and take further steps in the suit. Though



sufficient reasons have not been shown to condone such a huge delay, in order to give a fair opportunity to the petitioner, this Court is inclined to allow this revision.

7. Accordingly, this Civil Revision Petition is allowed and the order of return of the trial Court in unnumbered application in O.S.No.152 of 2017 dated 05.04.2023 is set aside. The trial Court shall number the application and decide the application on its own merits after affording opportunity to the parties concerned. The registry is directed to return the original unnumbered application to the petitioner.

05-08-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
vrc

To
The District Munsif,
Bhavani.



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