



IN THE HIGH Court OF JUDICATURE AT MADRAS

Reserved on:25.09.2025

Pronounced on:10.10.2025

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THE Hon'ble MR.JUSTICE P.B.BALAJI
CRP. Nos.3802 of 2025 and 1645 of 2024
and CMP. Nos.20198 of 2025 and
8718 & 13099 of 2024

1.Rajendiran
2.Tamilselvi
3.Selvan

Petitioners in both CRPs

Vs

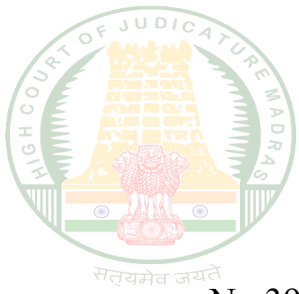
Nagarajan

Respondent in both CRPs

PRAYER in CRP. No.3802 of 2025: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the order dated 04.07.2025 passed by the learned Additional District Judge, Kallakurichi in E.A. No.59 of 2024 in E.P. No.84 of 2019 in O.S. No.13 of 2016 as illegal and bad in law.

PRAYER in CRP. No.1645 of 2024: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decreetal order dated 13.02.2024 made in I.A. No.394 of 2023 in O.S. NO.13 of 2016 passed by the learned III Additional District Judge, Kallakurichi as illegal and bad in law.

For Petitioners : Mr.D.Murugan in both CRPs
For Respondent : Ms.R.Swathi in CRP. No.3802 of 2025
Mr.R.Jayaprakash in
CRP. No.1645 of 2024



COMMON ORDER

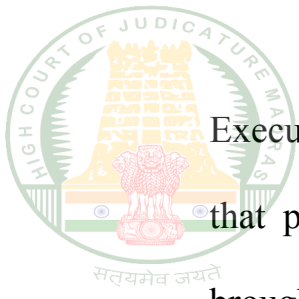
CRP. No.1645 of 2025 has been filed challenging the order in I.A.

No.394 of 2023 in O.S. No.13 of 2016, dated 13.02.2024. CRP. No.3802 of 2025 has been filed challenging the order in E.A. No.59 of 2024 in E.P. No.84 of 2019 in O.S. No.13 of 2016, dated 04.07.2025.

2. I have heard Mr.D.Murugan, learned counsel for the petitioners in both the Civil Revision Petitions and Ms.R.Swathi, learned counsel for the respondent in CRP. No.3802 of 2025 and Mr.R.Jayaprakash, learned counsel for the respondent in CRP. No.1645 of 2024.

3. The revision petitioners are the defendants in O.S. No.13 of 2016. A decree came to be passed exparte on 02.04.2018 and seeking condonation of 1933 days in filing the Application to set aside the exparte decree, the petitioners had filed an Interlocutory Application in I.A. No.394 of 2023. The said Application has been dismissed, as against which the present revision in CRP. No.1645 of 2024 has been filed.

4. Insofar as CRP. No.3802 of 2025, the revision has been filed seeking to reduce the upset price fixed which came to be allowed by the



Executing Court on 04.07.2025. However, it is now brought to my notice that pursuant to the upset price being reduced, the property has been brought for sale in public auction and the successful bidder has also paid and deposited the entire sale amount into Court and in view of the above, nothing survives for consideration in the said revision. Consequently, CRP. No.3802 of 2025, does not require to be adjudicated. Hence, CRP. No.3802 of 2025 is liable to be dismissed.

5. Coming to the application under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 1933 days, the case of the revision petitioners is that the suit has been filed for recovery of money based on an unregistered agreement of sale. Therefore, the suit itself was not maintainable and it is also contended that the petitioners are agricultural coolies' who were not worldly wise to diligently follow up the case and that because of illness, the first petitioner was not in a position to enter appearance in the suit. The learned counsel for the petitioners would also state that if the Covid period is factored, then the delay was actually lesser and only about 716 days.



6. The learned counsel would also invite my attention to the order passed by this Court on 18.04.2024, where this Court recorded the undertaking of the petitioner to deposit the suit claim of Rs.12,60,000/- on or before 01.07.2024. Referring to the said order, the learned counsel would state that the petitioner is willing to pay the entire amount and the petitioner may be permitted to retain his valuable property acquired out of his hard-earned savings and investments.

7. Per contra, Mr.R.Jayaprakash, learned counsel for the respondent would contend that the petitioners were served with summons and they did not even choose to file a written statement and therefore, there is no defence available before the Trial Court and it is not open to the petitioners to raise contentions that the suit itself is not maintainable as the claim arises under an unregistered sale agreement. The learned counsel would further state that the petitioner had knowledge of the Execution Proceedings and he cannot cite the intervening Covid pandemic as an excuse, since the decree was passed even in April 2018, two years well before the Covid pandemic struck in India. He would also state that the petitioner has been watching the proceedings for seven long years and allowed the property to be sold and now that the auction



purchaser has also deposited the entire sale consideration and no indulgence should be shown to the petitioners and seeks dismissal of the revision. The learned counsel has also relied on the following decisions:

(i) *Brahampal Alias Sammy and Another Vs. National Insurance Company* reported in, (2021) 6 SCC 512;

(ii) *Pathapati Subba Reddy (Died) by Legal Representatives and others Vs. Special Deputy Collector (LA)* reported in, (2024) 12 SCC 336; and

(iii) *Chitravel and another Vs. Jothimani*, reported in 2024 (2) CTC 197.

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

9. The reasons assigned for seeking condonation of delay of 1933 days is that the first petitioner was suffering from jaundice and hence, he could not defend the suit. The Trial Court has found that even on 20.02.2017, the first petitioner has engaged the services of an Advocate and on 28.08.2017, has also filed an undertaking affidavit and time was taken for filing written statement in the suit. Thereafter, since no written



statement was forthcoming from the petitioners, the petitioners were set exparte and even in E.P. No.84 of 2019 on 21.02.2020, the petitioners' counsel appeared and took time and even in the EP, the petitioners have been set exparte. The Trial Court has also found that only one of the three petitioner who was admittedly suffering from jaundice and the third petitioner, the son of the petitioners 1 and 2, was very much a major and atleast, he could have appeared and defended the proceedings. Ultimately the Trial Court has found that the petitioners have not shown sufficient cause for condonation of delay of 1933 days. I do not find any perversity in the findings arrived at by the Trial Court.

10. I do not see any bonafides in the contentions putforth by the revision petitioners. Even when this Court thought it fit to give an opportunity to the petitioners to save the property and recorded the undertaking of the petitioners that they would deposit a sum of Rs.12,00,000/- on or before 01.07.2024, the petitioners have not taken advantage of the said order and admittedly, the amount has not been deposited. In fact, even in the order dated 18.04.2024, this Court has clearly held that if the undertaking is not abided by the petitioners, then further orders will be passed in the revision.



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11. Coming to the decisions, relied on by the learned counsel for the respondent in *Brahampal Alias Sammy's* case, (referred herein supra), the Apex Court held that “sufficient cause” as a condition precedent for granting the discretionary relief of condonation of delay and when the delay is inordinate and attributable to the party's inaction and negligence, Courts have to take a strict approach. In *Pathapati Subba Reddy's* case, (referred herein supra), the Apex Court held that the expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of bonafides is writ large. In *Chitravel's* case (referred herein supra), I held that discretion to allow an application for condonation of delay is different from satisfaction of the requirements of Section 5 of the Limitation Act, 1963 and if the applicant does not show sufficient cause and that there was no negligence or deliberate inaction on his part, then discretion cannot be exercised in favour of the applicant, by condoning the delay. Even applying the ratio laid down in the above cases to the facts of the present case, the petitioners are not entitled to any discretion to be exercised in their favour, as they have miserably failed to show “sufficient cause”.

12. In view of the above, I do not see any merit or bonafides in the



Application and the order passed by the Trial Court dismissing the Section 5 Application does not warrant interference and the CRP No.1645 of 2024 is liable to be dismissed. Accordingly, both the Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

10.10.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

- 1.The Additional District Judge, Kallakurichi.
2. The III Additional District Judge, Kallakurichi.

P.B.BALAJI, J.,



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CRP. No.3082 of 2025 and 1645 of 2024



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Pre-delivery orders in
CRP. Nos.3802 of 2025 and 1645 of 2024
and CMP. Nos.20198 of 2025 and
8718 & 13099 of 2024

10.10.2025