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CRP.No.4719 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:27.11.2025

Pronounced on: 05.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.4719 of 2025

Muthachen Thomas Chacko

Petitioner(s)

Vs

1.M/s.Alacrity Housing Limited,
Represented by its Mg Director,
Mr.Ashok R.Karnad, Atandra,
25, Thirumalai Road, T.Nagar,
Chennai.

2.Mr.Ashok Karnad

3.Mrs.Kripa Rao

4.Mr.Hariramaswamy

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 21.08.2024 passed in I.A. No.1 of 2021 in O.S. No.9269 of 2010 passed by the learned Judge XIX Additional City Civil Court, Chennai.

For Petitioner : Mr.Sathish Murthi
For Respondents : Mr.R.Venkatraman
for M/s.Tatva Legal, Chennai
for R1 & R2
Mr.R.N.Amarnath for R4



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ORDER

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The plaintiff is the revision petitioner. The present revision petition has been filed, aggrieved by the dismissal of the Application filed by the petitioner, seeking condonation of delay of 3704 days in seeking to restore the suit which was dismissed for default on 12.04.2011.

2.I have heard Mr.Sathish Murthi, learned counsel for the revision petitioner and Mr.R.Venkatraman, learned counsel for M/s.TATVA Legal, for the first and second respondents and Mr.R.N.Amarnath, learned counsel for the fourth respondent.

3. The learned counsel for the revision petitioner would submit that the petitioner had filed a suit before this Court in C.S. No.1049 of 2008 and even before this Court, the defendants had entered appearance through Counsel. The petitioner was not put on notice about the transfer of the suit to the City Civil Court. According to the learned counsel for the petitioner in March 2021, the petitioner contending that he did not receive proper information from his lawyers, he engaged another lawyer to enquire about the status of the suit and he was shocked to find that the



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High Court website reflected the suit as an “unwanted case”. He would further state the suit has been transferred to the City Civil Court and re-numbered as O.S. No.9269 of 2010 and he was never informed by his Counsel or by the Court, subsequent to the transfer and therefore, it is the case of the petitioner that he was totally in dark and only after the alternate Counsel digging up the case records, all these details came to light. The learned counsel for the petitioner would further state that the petitioner has thereafter filed I.A. No.1 of 2021 on 07.07.2021 and also took out I.A. No.2 of 2021 seeking condonation of delay of 3704 days. Side by side, the petitioner also gave a complaint against his Advocate to the Bar Council of India in Revision Petition No.37 of 2023. The learned counsel states that despite showing sufficient cause, the Trial Court has dismissed the Application for condonation of delay.

4. The learned counsel for the petitioner also points out that the petitioner approached the Hon'ble Supreme Court in S.L.P.Dairy.No. 50529 of 2024 and on 07.04.2025, the Hon'ble Supreme Court dismissed the Special Leave Petition, giving liberty to the petitioner to seek relief before this Court, by filing appropriate petition and therefore, the present



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revision petition has thereafter been filed, challenging the dismissal of the condone delay application. The learned counsel for the petitioner would submit that there has been no deliberate inaction or negligence on the part of the petitioner and further he is aged 77 years and despite his age and health complications, he has been following up the matter and when he was never put on notice by his Counsel or by the Court that the suit has been transferred from the High Court to the City Civil Court, he should not be prejudiced. He would state that the Trial Court has erroneously proceeded to dismiss the application on irrelevant considerations. He would therefore pray for the revision being allowed.

5. Per contra, Mr.R.Venkataraman, learned counsel appearing for the respondents 1 and 2 would submit that the suit was dismissed on 21.08.2024 before the City Civil Court and further submit that the petitioner is admittedly, a tech-savvy person and from his own affidavit, it can be seen that the petitioner has been corresponding with his Counsel through E.mails and text messages and in such circumstances, the learned counsel would submit that the petitioner being the litigant, he should have been diligent in following up the case and he cannot blame the



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Counsel and the learned counsel also relies on the decision of the Delhi High Court in *Moddus Media Private Limited Vs. M/s.Scone Exhibition Private Limited* in RFT No.497 of 2017 dated 18.05.2017, where the Delhi High Court held that the litigant owes a duty to be vigilant about the judicial proceedings pending in a Court of law against him, or initiated at his instance and the litigant cannot be permitted to throw the entire blame on the Advocate.

6. Similar view was taken in *Jan Chetna Jagriti AVOM Shaikshanik Viaks Manch Vs. SH Anand Raj Jhavar Sole Proprietor of M/s.RR Agrotech*, in RFA No.140 of 2025 dated 14.02.2025, by another Single Judge of the Delhi High Court, where, it has been held that even though a litigant cannot be made to suffer for the fault of the Counsel, but it cannot be a blanket rule and such protection can be extended to illiterate lay persons and not to educated litigants, who having engaged a Counsel cannot claim to be not under a duty to keep track of the case. He would therefore pray for the dismissal of the revision.

7. Mr.R.N.Amarnath, learned counsel for the fourth respondent,



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would submit that the petitioner does not even disclose as to when and how he came to know about the exparte decree. Further, he would state that while being cross examined in the application for condonation of delay, the petitioner has admitted that the Advocate engaged by him is related to his wife and he would therefore state that it is a clear case of collusion between the Counsel and petitioner and the Bar Council complaint is also only an afterthought to get a valid reason to get over the delay and latches that have occasioned on the part of the petitioner in approaching the Court to set aside the exparte decree. He would therefore pray for the dismissal of the revision.

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

9. There are three factors which in my considered opinion determine the fate of the present revision petition. Admittedly, the suit was filed before this Court on the Original Side and in view of the pecuniary jurisdiction of the City Civil Court being enhanced, the suit was transferred to the City Civil Court and re-numbered as O.S.No.9269



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of 2010. In fact, this Court in *Ellapuram Panchayat Union, Periapalayam Vs. Shri Bhavaniammal Devasthanam*, reported in 1981 (94) LW 256, held that whenever there is transfer of a case from one Court to the other, a notice to that effect should be given to the parties, informing them about the transfer, though no provision to such effect was found either under the Code of Civil Procedure or under the Civil Rules of Practice. This decision was followed by on other decision of this Court in *Dayanandhini Vs. K.Mala*, reported in CMA.No.2460 of 2015 dated 14.02.2019, where again, this Court held that notice was necessary, consequent to transfer of proceedings and also directed the Registry to circulate the judgment of this Court in *Ellapuram's case* (referred herein supra) to all Civil Courts, with instructions to issue notice to the parties, on transfer of suits, on account of constitution of new Courts or bifurcation of jurisdiction or transfer of cases due to the change in pecuniary jurisdiction or territorial jurisdiction or even in the case of a transfer due to workload.

10. Similarly, I had an occasion to deal with, in the *Onkar Kanwar*



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and another Vs. M/s.Shiva Texyan Limited, represented by its Manager,
in CRP. No.5041 and 5044 of 2025 dated 21.11.2025, where I held that it is mandatory for the Court to issue notice upon such transfer, on account of pecuniary jurisdiction. From the records as well as from the arguments of the learned counsel, the fact that no notice was served on the Counsel for the plaintiff or the plaintiff i.e., the revision petitioner herein, after transfer is clearly borne out of records. Therefore, it can be safely concluded that the petitioner was not put on notice about the transfer. Unless the petitioner knows the new number assigned for the case and the Court to which it has been assigned, neither the petitioner nor his Counsel would be in a position to follow up the matter and enter appearance. Even in the website of the High Court, the case status only reflects as unwanted. If at all the website has indicated the new number assigned for the said case and Court where it has been sent to, then atleast the petitioner cannot feign ignorance and contend that he was not able to ascertain the status of the suit.

11. The second factor is that after dismissal of the condone delay



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petition, the petitioner straightaway approached the Hon'ble Supreme Court and the Hon'ble Supreme Court by order dated 07.04.2025, has dismissed the Special Leave Petition, giving liberty to the petitioner to approach this Court and further held that if any such petition is filed, delay/latches should not be raised by the High Court and the requests of the petitioner should be adjudicated in accordance with law. In the light of the above, the fact that the petitioner thereafter moved this Court in September 2025 cannot be put against the petitioner.

12. Coming to the arguments of the learned counsel for the respondents that the petitioner has to be vigilant and that he does not even disclose as to when he came to know about the order dismissal of the suit for default, the contention regarding the petitioner being not diligent does not arise in the present case. It is a matter of fact that in the High Court, especially for Civil Suits, there is no particular hearing date assigned, unlike the system that is followed in the City Civil Court where regular dates are assigned for suits to enable the Counsel and the parties to follow up the same. In the High Court, especially on the Original Side of this Court, the system is where one gets to know of the



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hearing only when the matter is listed in the cause list for a particular date and admittedly, several suits are pending for final hearing and therefore, I do not see how the petitioner can be blamed as not being vigilant in following the case.

13. The petitioner has also stated in his affidavit that when he did not get a proper response from his lawyer, he has engaged the services of another lawyer and only thereafter, he came to know that the suit was disposed of as unwanted and after making further enquiry, it came to light that the suit has been transferred and re-numbered as O.S. No.9269 of 2010 and thereafter, for non appearance before the City Civil Court, the suit was dismissed for non prosecution on 12.04.2011. In the affidavit the petitioner states that he suspected that all is not well in early 2021, therefore, I do not see, how the petitioner has not disclosed the relevant dates as to date of knowledge.

14. The third aspect is with regard to the delay, alleged by the learned counsel for the respondents, that is between the filing of the application to seek restoration of the suit after having come to know



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about the same even in early 2021. I do not see the said delay to be fatal since the petitioner has clearly explained that in early 2021, he smelled foul and had to engage the services of another lawyer to find out the case status and there is no information available in the High Court website, which only reflected the case has disposed as unwanted and thereafter, the other Counsel had to dig up records before coming to know that the suit has been transferred to the City Civil Court and that the suit was called for hearing before the City Civil Court, subsequent to transfer on several dates, before it came to be dismissed for non prosecution. In the light of the above, I do not find that the delay in filing the applications on 07.07.2021 is unexplained or that it is fatal to the petitioner's case.

15. Though learned counsel for the petitioner as well as the respondent also argued on the merits of the suit claim, I am not inclined to go into the same, since I am only testing the cause shown by the petitioner for condonation of delay to be sufficient or not and it is now settled law that while considering a Section 5 Application, the Court is only required to decide whether a “sufficient cause” has been shown, entitling the applicant to an order of condonation of delay and the Court



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is not required to go into the merits of the main matter.

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16. In the light of the above, the order of the Trial Court dismissing the Application is clearly perverse and liable to be set aside. This Civil Revision Petition is allowed and the order passed in I.A. No.1 of 2021 in O.S. No.9269 of 2010 by the learned Judge XIX Additional City Civil Court, Chennai is set aside. Considering the age of the petitioner and the fact that the suit was filed before this Court way back in the year 2008, the learned XIX Additional City Civil Judge, Chennai shall decide the application under Order IX, Rule 13 CPC expeditiously and dispose of the same on merits and in accordance with law within a period of four (4) weeks from the date of receipt of the copy of the order. No costs.

05.12.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The XIX Additional City Civil Court,
Chennai.

P.B.BALAJI, J.,



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Pre-delivery order in
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