



CRP.Nos.3700, 3705, 4484 & 4486 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:06.11.2025

Pronounced on: 05.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. Nos.3700, 3705, 4484 & 4486 of 2025

and

CMP. Nos.19804, 19810, 22843 & 22848 of 2025

George Foundation,
Rep. by its Authorized Trustees,
Dr.Lekha Keister,
No.401, 4E, Cross, 2nd Block,
HRBR Layout, Kalayana Nagar,
Bangalore 560 043.

Petitioner in all CRPs

Vs

1.K.Sakthivel
Jude Devadas (died)
2.K.S.Venkatesh
3.K.Govindasamy
4.The Sub Registrar,
Hosur, Krishnagiri District.

Respondents in all CRPs

COMMON PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair order passed in I.A. Nos.1 & 2 of 2024 in O.S. No.4 of 2012 on the file of the Additional District Judge, Hosur and to set aside the consequential decretal order dated 25.07.2025 passed in I.A. Nos.1 & 2 of 2024 in O.S. No.4 of 2012 on the file of the Additional District Judge, Hosur.



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For Petitioner : Mr.R.Ezhilarasan in all CRPs
For Respondents : Mr.S.Vasudevan for R1 in all CRPs
Mr.N.Muthuvel,
Government Advocate for R4
in all CRPs

COMMON ORDER

These revision petitions have been filed by the plaintiff in O.S. No. 4 of 2012, aggrieved by the orders passed by the Trial Court condoning delay of 3378 days in filing the petition to set aside exparte decree and also consequently, proceeding to set aside the exparte decree against the third defendant.

2. I have heard Mr.R.Ezhilarasan, learned counsel for the revision petitioner in all the revisions and Mr.S.Vasudevan, learned counsel for the first respondent and Mr.N.Muthuvel, learned Government Advocate for fourth respondent in all the revisions.

3. Mr.R.Ezhilarasan, learned counsel for the revision petitioner would submit that the Trial Court has erroneously exercised discretion in favour of the third defendant by condoning an inordinate delay of 3378 days and consequently, setting aside the exparte decree as well. The learned counsel would submit that the suit was filed for declaration and



permanent injunction by the revision petitioner as plaintiff in O.S. No.4 of 2012. The third defendant entered appearance and also filed his written statement, but however, subsequently, did not defend the suit and the same resulted in an exparte decree being passed on 14.08.2014. The first respondent filed an application to set aside the exparte decree dated 14.08.2014, along with an application to condone delay of 338 days in I.A. No.167 of 2015. The said I.A. came to be dismissed for default on 20.04.2016 and the first respondent filed I.A. No.80 of 2016 to set aside the said order dated 20.04.2016, the said I.A. came to be allowed on 14.06.2018 and consequently, I.A. No.167 of 2015 was restored.

4.Pending enquiry in I.A. No.167 of 2015, according to the learned counsel for the petitioner, the petitioner and the first respondent entered into a compromise. The matter was settled out of Court and the application filed by the first respondent in I.A. No.167 of 2015 was withdrawn by order dated 13.08.2019 with the withdrawal of the said application, the decree passed on 14.08.2014, become final. In this backdrop, according to Mr.Ezhilarasan, learned counsel for the petitioner, suppressing the filing of the earlier I.A. No.167 of 2015 and subsequent events, leading to the withdrawal of I.A. No.167 of 2015 on 13.08.2019, the first respondent has filed an application seeking to condone delay of



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3378 days in seeking to set aside the exparte decree in I.A. No.1 of 2024 and to set aside the exparte decree in I.A. No.2 of 2024. The learned counsel would further state that despite having filed a detailed counter and also marked all relevant documents as Ex.R1 to R6, the Trial Court, without considering any of the contentions of the revision petitioners, has proceeded allow the applications on payment of costs of Rs.25,000/-.

5. The learned counsel inviting my attention to the affidavit filed in support of the application for condonation of delay would submit that the first respondent has already sold the property to one Murugan even before he received suit summons and therefore, the purchaser, Murugan was a proper and necessary party to the suit. However, without impleading the purchaser from the first respondent, the petitioner has proceeded to obtain a decree exparte behind the petitioner's back. He would therefore state that the applications filed for condonation of delay and to set aside the exparte decree were clearly not maintainable in view of dismissal of I.A. No.167 of 2015.

6. Per contra, Mr.S.Vasudevan, learned counsel appearing for the first respondent would submit that the Trial Court exercised discretion in allowing the application on payment of huge costs of Rs.25,000/- and the



Trial Court has taken into account the fact that the revision petitioner has already sold the property and that his purchaser, even in the suit, has not been impleaded and therefore, an opportunity should be given to the first respondent to contest the suit on merits. He would therefore pray for dismissal of the revision petitions.

7. I have carefully considered the submissions advanced by the learned counsel on either side. Two sets of revisions have been filed, one challenging the first order, directing payment of costs for considering the delay and the other two revisions are filed challenging the orders passed. Condoning the delay and setting aside the exparte decree, after compliance of the order directing payment of costs.

8. In the affidavit filed in support of the application to condone delay as well as set aside the exparte decree, the first respondent claims that he had purchased the property, in and by sale deed dated 17.02.2009 and that subsequently, he has sold the property to one Murugan, even prior to his receiving summons in the suit. It is further stated by the first respondent that since he has mentioned in the written statement that he has already sold the property to Murugan, he did not follow up the matter with his Counsel and the counsel also did not inform him about the



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exparte decree behind the petitioner's back. It is only when he received notice dated 07.11.2023 from a Law Firm in Bangalore that he came to know that even his purchaser, Murugan had in turn sold the property to four persons, as early as on 02.05.2013 and that the purchasers of the properties from Murugan are now contemplating action against the first respondent. It is only under such circumstances, the first respondent claims that he was compelled to take out the application to set aside the exparte decree along with the application to condone delay.

9. It is also claimed by the first respondent that he came to know about the passing of exparte decree only on 25.11.2023 when he received notice from the Law Firm acting on instructions from subsequent purchasers and therefore, there is no delay in filing the application to set aside the exparte decree which has been filed within 30 days from receipt of the said notice. But however by way of abundant caution, the application to condone delay of 3378 days has also been taken up.

10. The petitioner has filed a detailed counter affidavit bringing it to the notice of the Court that after the exparte decree came to be passed on 14.08.2014, the petitioner has filed I.A. No.167 of 2015, under Section 5 to condone delay of 338 days in filing the application to set aside the exparte decree. The said application has admittedly been



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dismissed as withdrawn on the memo filed by the first respondent herein on 13.08.2019. Therefore, the first respondent has clearly come to Court with a false case as if he never knew about the exparte decree until he received notice on 25.11.2023 from a Law Firm in Bangalore. The first respondent has also marked Exhibits R1 to R6 which are the documents pertaining to the earlier applications taken out in I.A. No.167 of 2015 as well as copy application filed by the first respondent in I.A. No.80 of 2016 as well as the withdrawal memo filed by the first respondent. Despite such strong objections, the Trial Court has proceeded to hold that I.A. No.167 of 2015 has not been decided on merits and therefore, the first respondent was entitled to maintain a fresh application for setting aside the exparte decree.

11. Once the first respondent has already attempted to have the exparte decree set aside and has voluntarily withdrawn his application, for whatever reason, the first respondent is clearly estopped and barred from taking out a second application. The Trial Court has unfortunately and erroneously found that I.A. No.167 of 2015 not being disposed of on merits in view of Ex.R3 and was only withdrawn pursuant to the memo, the present applications to condone delay and set aside the exparte decree were maintainable.



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12. The reliance placed on the decision of the Hon'ble Supreme Court in *Collector Land Acquisition Anantnag and Another Vs. MST.Katiji and others*, reported in (1987) 2 SCC 107, is wholly misplaced. The Trial Court ought to have seen that the petitioner, at the first instance, has approached the Court suppressing the fact that he had filed an application in I.A. No.167 of 2015 and the same was withdrawn. If really the first respondent was bonafide, he should have disclosed the fact that the earlier I.A. No.167 of 2015 was filed for condonation of delay of 338 days and that for various reasons, it was withdrawn by filing a memo and however subsequently, it has become necessary for the petitioner to have the exparte decree set aside and in such circumstances, the applications were taken up. This is not the case of the first respondent. As already discussed, the first respondent has not even disclosed the fact that he earlier attempted to have the exparte decree set aside, that too with a delay of 338 days. Once the first respondent has voluntarily withdrawn his Application under Section 5, that brings a finality to all attempts and avenues open to the first respondent to have the exparte decree set aside. It was not open to the first respondent thereafter to maintain a fresh set of applications, that too suppressing the earlier applications filed for the same purpose.



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13. In the light of the above, the Trial Court has clearly fell in error in allowing the applications filed by the first respondent. The exercise of discretion in favour of the first respondent is clearly perverse and wholly unsustainable and calls for interference in revisions. For all the above, all these revisions are allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

14. Even though, I had dismissed the impleading Applications in CMP. Nos.27606, 27607, 27611 & 27615 of 2025 on 06.11.2025, Mr.S.Mukunth, learned Senior Counsel had requested that the rights of the impleading applicants shall be reserved. It is needless to state that the dismissal of these revision petitions will not come in the way of the impleading applicants to canvass their rights independently, in a manner known to law. Copy of the order shall also be furnished to the applicants in the CMP, even though impleading application has been dismissed.

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Index : Yes / No

Internet : Yes / No



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To:

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The Additional District Judge, Hosur.

P.B.BALAJI, J.,

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Pre-delivery order in
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