



C.R.P.No.3642 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3642 of 2023

and

C.M.P.No.22796 of 2023

1.Poongodi
2.Rajendran
3.Nagaraj

... Petitioners

Vs.

1.Ruckmani
Marimuthu (died)
2.P.Ganeshan

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, against the fair and decretal order, dated 21.07.2023, in I.A.No.2 of 2023 in O.S.No.173 of 2015 on the file of the Subordinate Court at Palladam.

For Petitioners : Mr.K.Myilsamy

For R1 and R2 : Mr.W.M.Abdul Majeed



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ORDER

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Challenging the order passed by the Sub-Judge at Palladam, dated 21.07.2023, in I.A.No.2 of 2023 in O.S.No.173 of 2015, dismissing the application to condone the delay of 1698 days, the present Civil Revision Petition has been filed.

2.The suit has been originally filed by the 1st respondent against one Marimuthu, who is the husband of the 1st petitioner herein and the father of the petitioners 2 and 3 herein. The suit has been filed to enforce the sale agreement dated 12.09.2014. In the said suit, Marimuthu appeared, however, he has not filed his written statement. Therefore, *ex parte* decree has been passed against him on 08.02.2017. Thereafter, it appears that he died on 17.03.2021. Thereafter, the present application has been filed by the revision petitioners as the legal heirs of Marimuthu, to condone the delay of 1698 days in filing the application to set aside the *ex parte* decree, on the ground that they were not aware of the proceedings. Further, it is their contention that Marimuthu was suffering from heart ailments and he was paralytic, and only during the execution proceedings, they came to know about the *ex parte* decree. Therefore, they sought to condone the



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delay of 1698 days in filing the application to set aside the *ex parte* decree.

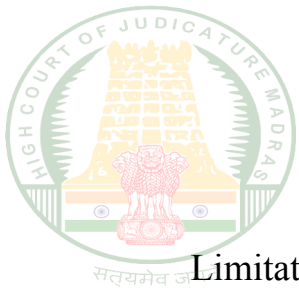
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3.The said application was opposed by the decree holder on the ground that the pendency of the suit was known to the petitioners in the year 2015 itself and Execution Petition has been filed in the year 2017 itself and notice has also been served in the Execution Petition. Thereafter, sale deed has been executed by the Court on 12.12.2019. When delivery was sought to be taken in E.P.No.13 of 2020, the present application has been filed.

4.The application was dismissed by the trial Court on the ground that there is no sufficient explanation for the delay. Challenging the same, the present revision has been filed.

5.Heard the learned counsel on either side and perused the entire materials available on record.

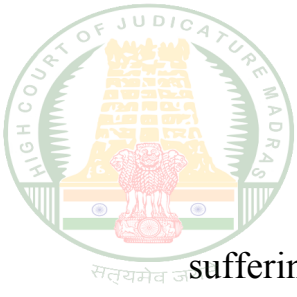
6.No doubt, the word “sufficient cause” under Section 5 of the



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Limitation Act would normally receive a liberal approach. However, to extend such liberal approach, there must be foundational facts being established and there must be genuineness of the facts such that the Court can lean in favour of the party to condone the delay. However, when the allegations are made only for the purpose of condoning the delay without any factual foundation, as a matter of right, a person cannot seek condonation of delay, that too, after a long time. The affidavit filed by the petitioners clearly indicates that Marimuthu, the husband of the 1st petitioner and father of the 2nd and 3rd petitioners, was aware of the suit and in fact, he was prosecuting the suit till 2017. Though the suit was filed in the year 2015, he has not filed his written statement till 08.02.2017. Thereafter, E.P.No.38 of 2018 has been filed for execution of the sale deed. Despite service of notice, he failed to execute the sale deed, which resulted in the Court itself executing the document on 12.12.2019. Therefore, it cannot be said that the parties were not at all aware of the proceedings. When a proper opportunity has been given to the original defendant, he has not availed such opportunity. After his death, his legal heirs, without any foundational background to substantiate the allegations, cannot be permitted to unsettle the settled issues. The very contention of the petitioners that Marimuthu was



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suffering from heart ailments and he was paralytic, has not been substantiated by any scrap of paper. Not even oral evidence has been adduced in this regard. Therefore, after his death, only when the proceedings reached the last stage of taking delivery, the petitioners have come forward to the Court with some allegations which have not been substantiated. Therefore, this Court is of the view that the delay has not been explained properly. There is no sufficient cause shown to condone such huge delay. Therefore, this Court does not find any merit in this revision.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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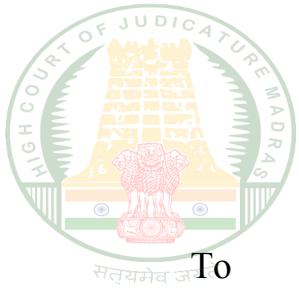
Index : Yes / No

Speaking order / Nonspeaking order

Neutral Citation : Yes / No

N. SATHISH KUMAR, J.

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To

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The Subordinate Judge,
Palladam.

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