



CRP(NPD) No.3546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 16.06.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CRP(NPD) No.3546 of 2024

D. Subramani

...

Petitioner

Vs.

D.S.Sivalingam

...

Respondent

Prayer : Civil Revision petition has been filed under Section 115 of CPC to set aside the order made in I.A.No.1 of 2022 in O.S.No.31 of 2017 dated 25.04.2023.

For Petitioner : Mr. L. Ramu

For Respondent : Mr. M.Samuel Raja

ORDER

Challenging the order passed by the Trial Court dismissing the application to condone the delay of 1521 days, in filing an application to set aside the exparte decree dated 24.10.2017, the present revision has been filed.



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2. Originally, the suit has been filed by the respondent/plaintiff for specific performance based on a registered sale agreement dated 19.03.2015. The said suit has been decreed exparte on 24.10.2017. Thereafter, Execution Petition was also filed in E.P.No.46 of 2018. As the judgment debtor did not appear before the Executing Court, sale deed was executed on 18.03.2022 and E.P. was closed on 06.04.2022.

3. Thereafter, the petitioner/defendant came up with an application to condone the delay of 1521 days on the ground that he has received the loan of Rs.3lakhs from the respondent/plaintiff, for which, he has executed a Mortgage deed. After receipt of the summons from the Court, he met the respondent/plaintiff and he assured that on payment of the loan amount, the Mortgage deed will be revoked. Therefore, he was under the impression that nothing will happen. Only later he came to know that the sale agreement has been created and therefore, there was a delay of 1521 days in filing the application to set aside the exparte order. The said condone delay application has been opposed by the respondent. The Trial Court found that there was no sufficient reason and hence, dismissed the application. Challenging the same, the present revision has been filed.



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4. It is the contention of the learned counsel for the petitioner that original *lis* has already been completed and sale agreement has got registered in favour of the respondent. The petitioner is old and illiterate and therefore, an opportunity may be given to contest the matter.

5. Whereas, the learned counsel for the respondent would submit that it is not the case of the petitioner that no summon was served nor he was not aware of the proceedings. In fact, he received the summons and remained silent all these time. Thus, he opposed the present petition.

6. I have considered the matter in the light of the submissions made by the counsel on both sides and perused the materials available on records carefully.

7. While condoning the delay, the Courts normally decide in favour of the party, who has come to the Court with some delay, provided a bonafide reasons are adduced. The word “sufficient cause” referred to in



Section 5 of the limitation Act, normally warrants a liberal approach. To

attract such a liberal approach, there must be some bonafide reasons.

Entire affidavit in the petition is carefully perused, except stating that he has executed only a mortgage deed, not a sale agreement.

8. It is not the case of the revision petitioner that he is not aware of the proceedings or no summons have been served. The affidavit of the petitioner itself indicates that he is aware of the suit proceedings. In fact, summons have also been served on him, not once, but twice. The only explanation given by the petitioner is that after receipt of the summons, he met the respondent herein and the respondent has informed him that if he pays the loan amount, the mortgage deed will be revoked. Such contention is highly improbable. Any normal person would not have kept quiet when the property was sold based on some document. But the petitioner just remained silent, particularly, even when the suit has been initiated in the Court of Law. It is also to be noted that at the stage of Execution proceedings also, the petitioner remained *exparte* and the sale deed was also executed in favour of the respondent. Only thereafter, the present



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petition has been filed with bereft of details. There is no valid reason much less than sufficient cause. Hence, I do not find any convincing reasons to condone such a huge delay of 1521 days and the revision is liable to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed. No costs.

16.06.2025

mrp

To

1. The Sub Court, Tiruttani, Thiruvallur District.



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N. SATHISH KUMAR, J.

mrp

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