



WEB COPY

CRP No.3498 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3498 of 2019

Miss.A.Haripriya

... Petitioner

Vs.

A.Rukmanganathan (deceased)

- 1.Mrs.A.Nurunnissa Begum
- 2.K.B.Abdul Mannan
- 3.K.B.Abdul Nasser
- 4.K.B.Shabeer Ahamed
- 5.K.B.Mohammed Salman
- 6.K.B.Sham Shad
- 7.K.B.Rabih Begum
- 8.Mrs.K.B.Mehrunissa Begum
- 9.K.M.S.Mohamed Riyaz Khan
- 10.A.R.Rukmani
- 11.A.R.Sudharsanam
- 12.A.R.Janardhanam
- 13.A.R.Chamundeswari

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order passed in I.A.No.33 of 2012 in O.S.No.13634 of 2010 vide Order dated 29.07.2019 on the file of XVI Additional City Civil Judge, Chennai.



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For Petitioner : Mr.T.Suresh

For Respondents : Mr.R.1 to R.8 – Set exparte
(Not necessary parties)
R.9 – No appearance

ORDER

Heard the learned counsel for the petitioner. Despite sufficient opportunities to enable the ninth respondent to appear and make submission, learned counsel for the ninth respondent has not chosen to appear despite the revision is being listed under the caption “for orders”.

2. Mr.T.Suresh, learned counsel for the petitioner would bring to my notice that the petitioner is the plaintiff in a suit for declaration and permanent injunction. The suit was originally filed before the Original Side of this Court and numbered as O.S.No.13634 of 2010 on the file of Fast Track Court No.II / XVI Additional Judge, City Civil Court, Chennai. The suit came to be dismissed for non-prosecution on account of non-appearance of the revision petitioner before the XVI Additional Court, City Civil Court, Chennai post transfer of the suit.

3. The contention of the petitioner is that the notice of transfer was



served on the counsel for the petitioner and in turn, the learned counsel for the petitioner has not informed the petitioner about the said transfer and the petitioner was in dark. It is the further case of the petitioner that if the petitioner had notice of the transfer of the suit to the City Civil Court, she would have certainly, diligently prosecuted the suit, where she is the plaintiff.

4. I find that the delay is 180 days and the same is not inordinate. The explanation offered by the petitioner was clearly acceptable and justifiable. However, the trial court, on improper and erroneous consideration of the facts, has proceeded to dismiss the application along with an application to restore the suit. In fact, I find that the trial Court has without even considering the application for condonation of delay has straight away proceeded to dismiss the application under Order IX Rule 7 of Civil Procedure Code in I.A.No.33 of 2012 and challenging the same, the present revision has been filed.

5. When the petitioner has been able to demonstrate sufficient cause for non-appearance, the trial Court should have adopted a liberal approach and considering the fact that the petitioner is the plaintiff who has

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approached the Court seeking the relief and the delay is also not inordinate, should have allowed the application.

6. In the light of the above, I am inclined to set aside the order passed in I.A.No.33 of 2012 in O.S.No.13634 of 2010 dated 29.07.2019 and the suit in O.S.No.13634 of 2010 is restored to file.

7. Mr.T.Suresh, learned counsel for the revision petitioner brings to my notice that issues have already been framed and trial is yet to commence. Considering the above and the fact that originally the suit was filed before this Court in C.S.No.50 of 2001 and subsequently transferred to City Civil Court and re-numbered as O.S.No.13634 of 2010, the trial Court shall expedite the trial and dispose of the suit on merits and in accordance with law on or before 30.06.2026.



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8. With the above direction, the civil revision petition is allowed. No costs.

16.12.2025

Index:yes/no

Neutral Citation:Yes/no

Speaking Order/Non-speaking Order

Index:yes/no

sr

To

The XVI Additional City Civil Court, Chennai



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