



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 18.11.2025

Order pronounced on : 12.12.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CMP.No.28306 of 2024
in CRP.SR.No.131211 of 2024

K.Vijayarangam (Deceased)

1.V.Selvi

2.V.Chandra Kala

3.V.Surya Kala

4.V.Saru Kala

... Petitioners

*[Cause title accepted vide Court
order dated 28.11.2024 in
CMP.No.26704 of 2024 in
CRP.SR.No.131211 of 2024]*

Vs.

1.M/s.Bajaj Promoters Pvt. Ltd.,
Rep. By its Managing Director
Mrs.Anuja Bajaj,
having its registered office at
No.71/72, Pantheon Road,
Egmore, Chennai – 600 008.

2.Srichand K.Bajaj (Died)

3.Raj Bajaj (Died)

4.Rajesh Bajaj

5.Rohit Bajaj

6.Rahul Bajaj

... Respondents



[RR 2 and 3 died. RR 4 to 6 are brought on record as LR's of the deceased R2 and R3 vide Court order dated 10.10.2025 made in CMP.Nos.20310, 20050 & 20051, 20349, 20049 & 20498 of 2025 in CMP.No.28306 of 2024 in CRP.SR.No.131211 of 2024]

Prayer: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, to condone the delay of 3110 days in filing the revision petition against the order dated 30.10.2015 passed in I.A.No.16309 of 2013 in O.S.No.4801 of 2009 on the file of the XIII Assistant City Civil Court, Chennai.

For Petitioners : Mr.P.R.Raman
Senior Counsel for Mr.G.Naveen

For Respondents : Mr.P.Valliappan
Senior Counsel for Mr.T.K.S.Gandhi
for R1
R2 & R3 Died
R4 served
RR5 & 6 not ready in notice

ORDER

The present Civil Miscellaneous Petition has been filed seeking condonation of delay of 3110 days in filing the revision petition, challenging the order dated 30.10.2015 in I.A.No.16309 of 2013 in O.S.No.4801 of 2009, on the file of the XIII Assistant City Civil Court, Chennai.



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2.I have heard Mr.P.R.Raman, learned Senior Counsel for Mr.G.Naveen,, learned counsel for the petitionerss and Mr.P.Valliappan, learned Senior Counsel for Mr.T.K.S.Gandhi, learned counsel for the stcontesting 1 respondent.

3.Mr.P.R.Raman, learned Senior Counsel appearing for the petitioners would submit that the suit was filed against a widow and her daughters and an ex-parte decree came to be passed in April 2010 and an application under Section 5 to set aside the ex-parte decree was filed on 25.10.2013, with a delay of 1350 days in seeking to set aside the ex-parte decree. He would further submit that the husband of the 2nd defendant was bedridden and passed away. Even the wife was seriously ill and she was also not of sound mind throughout and she has been regularly taking treatment for her mental conditions as well. The learned Senior Counsel would further state that the nd2 defendant filed the application and in order to explain the delay in filing the revision, medical records have also been relied on.

4.The learned Senior Counsel would further submit that sufficient
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records have been filed to establish that the 1st petitioner was not of sound mind and also for having taken continuous treatment for her mental illness.

He would however state that it is not a case where the 1st petitioner is completely insane and during her intervals of sanity, she has filed the necessary application before the trial Court as well as the present application seeking condonation of delay of 3110 days. The learned Senior Counsel would further submit that the plaintiff had filed a similar suit against the brother of the 1st defendant's husband and the said suit came to be dismissed on merits. He would therefore state that when identical set of facts have been projected in the present suit, which is pertaining to the brother of the 1st defendant in the other suit, namely O.S.No.3584 of 2016, the respondent/plaintiff cannot have any case to project, leave alone be successful at trial.

5.The learned Senior Counsel would further state that written statement has been filed, along with the condone delay application, the trial Court has erroneously dismissed the application, instead of giving an

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opportunity to the petitioners to contest the suit on merits. He would further state that when the delay had been satisfactorily explained, the length of delay is immaterial and this Court taking into account equity, namely the widow, who is supporting three daughters, ought not to have deprived her of an opportunity to safeguard her valuable immovable property. He would further state that in the counter filed, opposing the condonation of delay in filing the present revision petitioners, though it is contended by the 1st respondent/plaintiff that the defendants have already sold the property and they have no subsisting interest, the learned Senior Counsel submits that the alleged sale transaction which is put against the revision petitioners is only sale of undivided share and it no where mentions the suit property and therefore, the said stand taken by the respondent cannot be countenanced.

6. The learned Senior Counsel would also take me through the medical records of not only the 1st defendant, husband of the 1st petitioner, but also the medical records pertaining to the 1st petitioner as well and contend that the petitioners have clearly shown sufficient cause. He would also rely on the following decisions:



1.Moolchandra Vs Union of India and another, reported in (2025) 1 SCC 625.

2.Suresh Kumar Vs. State of Hariyana and others, reported in 2025 SCC Online SC 896.

3.Inder Singh Vs. State of Madhya Pradesh, reported in 2025 SCC Online SC 600.

7.Per contra, Mr.P.Valliappan, learned Senior Counsel appearing for

the contesting 1st respondent/plaintiff would submit that insofar as the suit

filed by the brother of the 1st defendant, that is the husband and father of the revision petitioners, respectively though the suit has been decreed, an appeal has been filed and the same is pending in A.S.No.155 of 2023 before the II Additional Civil Civil Court, Chennai. It is therefore contended by Mr.P.Valliappan, learned Senior Counsel that the decree dismissing the suit

filed by the 1st respondent/plaintiff, that has been filed against the brother of

the 1st defendant in the present suit, is of no avail.

8.Mr.P.Valliappan, learned Senior Counsel would further submit that

the 1st respondent has filed the suit in April 2009 and it has been decreed on 20.04.2010. After an inordinate delay of 1350 days, the petitioners chose to
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file the written statement, along with an application to condone the delay in setting aside the ex-parte decree on 25.10.2013. The said application to condone delay was dismissed, after due enquiry on 30.10.2015. However, the said order has not been challenged before this Court, within the time prescribed under the Limitation Act.

9.The learned Senior Counsel would further state that the revision petition has been filed with a delay of 3110 days and taking me though the affidavit filed in support of the application seeking condonation of delay, learned Senior Counsel would submit that the petitioners have not made out any cause, leave alone sufficient case and therefore, they are not entitled to an order of condonation of delay of 3110 days. He would further submit that there is also no explanation as to why the three daughters, who are admittedly defendants in the suit did not take any any steps to challenge the order in time. It is therefore, the contention of Mr.P.Valliappan, learned Senior Counsel that consistently the defendants have been careless and have exhibited indifference in defending the suit at all stages and therefore, they are not entitled to any indulgence.

10.Insofar as the request for exercise of equity in favour of the



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petitioners, Mr.P.Valliappan, learned Senior Counsel would submit that in an application for condonation of delay, the *sine qua non* is showing of sufficient cause and if such sufficient cause is not shown, then there is no question of exercising any equity in favour of the petitioners, in order to condone the delay, especially when delay is totally unexplained. He would place reliance on the decision of the Hon'ble Supreme Court in *Mohamed Ali Vs. V.Jaya and others*, reported in (2022) 10 SCC 477 and decision of this Court in *P.Sureshkumar Vs. M.Dhandapani and others* in CRP.No.3801 of 2025 dated 07.11.2025.

11.I have carefully considered the submissions advanced by the learned Senior Counsel on either side.

12.It is not in dispute that the 1st respondent has filed a suit in April 2009 against the husband of the 1st petitioners and father of the other revision petitioners. The said suit was decreed on 20.04.2010. Admittedly, the 2nd defendant, that is the husband of the 1st petitioner and father of the remaining petitioners took out an application under Section 5 of the Limitation Act and sought for condonation of delay of 1350 days in filing



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the application to set aside the ex-parte decree dated 20.04.2010. The said application was dismissed, even during the lifetime of the said Vijayarangam,

nd the 2nd defendant in the suit. Contending that the said Vijayarangam took seriously ill and he was bedridden and also subsequently died and further, 1st petitioners, his wife was also mentally ill and was suffering from periods of insanity. The petitioners, as legal representatives of the 2nd defendant have now sought to challenge the dismissal of the Section 5 application, seeking to condone the delay in filing the application to set aside the ex-parte decree.

13. I am conscious of the fact that the order in I.A.No.16309 of 2013 dated 30.10.2015 is not under challenge. Both the learned Senior Counsel have also advanced submissions on the merits of the suit claim and the defence available to the petitioners. However, I do not deem it necessary to go into the arguments, touching the merits and demerits of the contentions in the suit, for the simple reason that it is now fairly well stated that while deciding an application to condone the delay under Section 5 of the Limitation Act, the Court has to only see whether the applicant seeking condonation of delay has explained the delay to the satisfaction of the Court



and if sufficient cause has been shown, then the delay can be condoned. It is only if sufficient cause is shown, this Court can even proceed to look into the merits of the matter, in order to balance equities. Therefore, I am restricting the scope of this revision petition only to the aspect of condonation of delay in preferring the present revision petition, with a delay of 3110 days.

14. In the affidavit filed in support of the application to condone the delay of 3110 days in preferring this revision petition, I find that all the revision petitioners have sworn to an affidavit dated 22.10.2024. Excepting paragraph No.8 of the said affidavit, I do not find any other portion of the said affidavit pertaining to the delay in filing the revision petition. Even in paragraph No.8, it is merely stated that the delay in filing the revision petition is not deliberate or wanton and that the petition to condone delay in filing the revision petition is filed on 2nd September 2024, with a delay of 3110 days.

15. As rightly pointed out by the learned Senior Counsel, Mr.P.Valliappan, when the affidavit is totally bereft of any particulars, leave
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alone reasons or cause shown for the delay, no amount of reliance placed on the documents can come to the rescue of the petitioners. Though it is stated

in paragraph No.4 of the affidavit that the 2nd defendant, that is Vjayarangam, husband of the 1st petitioners and father of the other petitioners died on 09.05.2017 and he was unable to keep track of the proceedings because of his ill health, there is no explanation whatsoever for the huge delay of 3110 days in filing the present revision petition.

16.Further, even assuming and giving a benefit of doubt in favour of the 1st petitioner, taking in account her claims that she was mentally ill intermittently, there is absolutely no whisper about why the three daughters, who are also revision petitioners, did not take any steps to challenge the order passed in I.A.No.16309 of 2013 in time. The delay of 7 ½ years is clearly unexplained and absolutely no cause, much less sufficient cause has been shown by the petitioners and therefore, the question of exercising any equity in favour of the revision petitioners does not arise.

17.Coming to the decisions that have been relied on by the learned



Senior Counsel for both sides, in *Moolchandra's case*, cited supra, the Hon'ble Supreme Court held that no litigant stands to benefit in approaching the Court belatedly and the length of delay that would be required to be considered while examining the plea for condonation of delay, would be the cause for delay which has been propounded will have to be examined. However, even in the said decision, the Hon'ble Supreme Court has clearly held that only if the cause for delay falls within the four corners of sufficient cause, it deserves to be condoned and further, categorically held that if the cause shown is insufficient, irrespective of the period of delay, the same would not be condoned.

18. In *Suresh Kumar's case*, cited supra the Hon'ble Supreme Court, following the ratio laid down earlier by the Hon'ble Supreme Court in *the Collector Land Acquisition, Anand Nag and another Vs. Mst. Katiji and others*, reported in 1987 2 SCC 107, held that a liberal approach in condonation of delay has been adopted by the Hon'ble Supreme Court in quite of few judgments, while condoning substantial delay. However, that was a case arising out of land acquisition proceedings and the object being not to deny land losers fair compensation, the Hon'ble Supreme Court held that the delay should have been condoned, with a rider that the claimants



would not be entitled to interest for the delayed period.

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19. In *Inder Singh's case*, cited supra, the Hon'ble Supreme Court though clearly held that delay cannot be condoned without sufficient cause, but if in a particular case, merits have to be examined, then the same should not be scuttled, merely on the ground of limitation. On facts, the Hon'ble Supreme Court found that the second appeal deserved to be heard on merits and proceeded to condone the delay, imposing cost of Rs.50,000/- on the State, in the light of peculiar circumstances, where the land in question, which was subject matter of the second appeal was taken over by the State and also allotted for public purpose. In such circumstances, the Hon'ble Supreme Court condoned the delay with cost of Rs.50,000/-, that too, with a word of caution that if the respondent exhibits promptitude in similar matters in future, then the Court may not be as liberal.

20. The Hon'ble Supreme Court in *Mohammed Ali's case*, cited supra, set aside the order of the High Court, condoning a delay of 2345 days in filing the petition to set aside the ex-parte judgment and decree. In the said case, the Hon'ble Supreme Court held that the High Court ought to have considered whether the trial Court was justified in passing the ex-parte



judgment and decree or not and whether the trial Court was right in refusing to condone the delay in filing the petition, challenging the ex-parte judgment and decree and not go into the merits of the illegality and validity of the ex-parte judgment and decree.

21.I had an occasion in *P.Sureshkumar's case*, cited supra, that when a person seeks condonation of delay, the first and most important step would be to make out sufficient cause before proceeding any further and if sufficient cause is not shown, the application for condonation of delay cannot be favourably considered. In the light of the above decisions also, I do not find the petitioners being entitled to an order condoning the huge and inordinate delay of 3110 days, which has not even been explained in the affidavit in support of the condone delay application, leave alone being explained to the satisfaction of the Court, by showing sufficient cause.

22.In the light of the above, the Civil Miscellaneous Petition is dismissed and the Civil Revision Petition is rejected at the SR stage itself.

No costs.

12.12.2025

Neutral Citation: Yes/No

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Speaking Order/Non-speaking Order

Index : Yes / No

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To

The XIII Assistant City Civil Court, Chennai.

P.B. BALAJI,J.

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Pre-delivery order made in
CMP.No.28306 of 2024
in CRP.SR.No.131211 of 2024

12.12.2025