

CRP.Nos.4052 & 4053 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

Civil Revision Petition Nos. 4052 & 4053 of 2022

Ramasamy (Died)

1.Pattu

W/o.Ramasamy

2.Narayanan

S/o. Ramasamy

3.Ravi

S/o. Ramasamy

4,Senthilkumar

S/o. Ramasamy

5.Balaji

S/o. Ramasamy

6.Karthikeyan

S/o. Ramasamy

[2 to 6 sons of Ramasamy residing at
Hanumar Koil Street, Tha.Pazhuvur Village,
Udayarpalayam Taluk, Ariyalur District.



CRP.Nos.4052 & 4053 of 2022

WEB COPY 7.Malliga

8.Santhakumari

9.Mahalakshmi

...Petitioners

versus

Amirthalingam

...Respondent

Prayer in 4052 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order of the Subordinate Judge dated October 18, 2022 dismissing the Review Petition in SR.No. 1953 of 2021 in A.S.No.01 of 2020.

Prayer in 4053 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order of the Subordinate Judge dated October 18, 2022 dismissing the I.A.No.4 of 2022 in the Review Petition in SR.No.1953 of 2021 in AS.No.1 of 2020.

For Petitioners : Mr.V.P.Rajendran

For Respondent : Mr.S.Nagarajan



CRP.Nos.4052 & 4053 of 2022

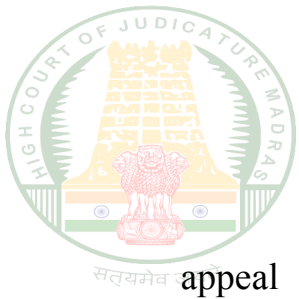
WEB COPY

COMMON ORDER

Civil Revision Petition No. 4052 of 2022 is filed seeking to set aside the order of the Subordinate Judge dated October 18, 2022 dismissing the Review Petition in S.R.No. 1953 of 2021 in A.S.No.01 of 2020.

(ii) Civil Revision Petition No. 4053 of 2022 filed seeking to set aside the order of the Subordinate Judge dated October 18, 2022 dismissing the I.A.No.4 of 2022 in the Review Petition in S.R.No.1953 of 2021 in A.S.No.1 of 2020.

2. The revision petitioners herein are the legal heirs of deceased sole plaintiff. The sole plaintiff filed the Suit in O.S.No.410 of 2010 on the file of the District Munsif, Jeyamkondam, [hereinafter called the “Trial Court”] seeking permanent injunction and other reliefs. After hearing both sides, the said Suit was dismissed vide Judgment and Decree dated November 29, 2019 by the Trial Court. Feeling aggrieved with the Judgment and Decree of the Trial Court, the legal heirs of the plaintiff had preferred an



CRP.Nos.4052 & 4053 of 2022

WEB COPY

appeal in A.S.No.1 of 2020 on the file of the Subordinate Judge, Jeyamkondam. After hearing both sides, the said Appeal in A.S.No. 1 of 2020 was dismissed vide Judgment and Decree dated September 20, 2021 and thereby confirming the Judgment and Decree passed by the Trial Court. The appellants then preferred a Review Application in S.R.No 1953 of 2021 in A.S.No. 1 of 2020 under Section 114 of the Code of Civil Procedure, 1908, along with a condone delay application filed in I.A.No. 4 of 2021 under Section 5 of the Limitation Act, 1963, praying to condone the delay of 18 days in preferring the Review Application in A.S.No. 1 of 2020. After hearing both sides, the said condone delay application was dismissed by the learned Subordinate Judge vide its order dated October 18, 2022 by observing that there is no error apparent on the face of the record in the Judgment and Decree of the First Appellate Court and the Court further noted that the petitioners ought to have filed a Second Appeal before this Court. Accordingly, the Interlocutory Application in I.A.No.4 of 2022 was



CRP.Nos.4052 & 4053 of 2022

WEB COPY

dismissed. Consequently, the Review Application in S.R.No. 1953 of 2021 was also dismissed. Feeling aggrieved with the fair and decretal order passed by the learned Sub Judge, Jeyamkondam, the appellants therein preferred these two Civil Revision Petitions.

3. The learned Counsel appearing for the petitioners has submitted that the Judgment and Decree in A.S.No.1 of 2020 was passed during the COVID-19 pandemic situation. He further submitted that the petitioners had preferred Review Application in S.R.No.1953 of 2021 along with Interlocutory Application No. 4 of 2022 praying to condone the delay of 18 days in A.S.No. 1 of 2020 by an order dated September 20, 2021. The Review Application was filed on December 20, 2021, which falls within the COVID-19 pandemic period. Hence, the Trial Court ought to have allowed the condone delay application and also numbered the Review Application. But the Trial Court without considering the COVID-19 pandemic situation



CRP.Nos.4052 & 4053 of 2022

WEB COPY

and without considering the Judgment passed by the Hon'ble Supreme Court in ***In Re:*** Cognizance for Extension of Limitation *suo motu* dismissed the delay petition. Accordingly, he prayed to allow the above Civil Revision Petitions.

4. Per contra, Mr.S.Nagarajan, learned Counsel appearing for the sole respondent submitted that the petitioners had not made out any grounds for maintaining Review Application, that there was no error apparent on the face of the record in the Judgment and Decree passed by the First Appellate Court. In the facts and circumstances of the case, the learned Subordinate Judge, has rightly dismissed the condonation of delay application as well as the Review Application. Therefore, there is no infirmity or illegality in the Judgment and Decree in A.S.No.1 of 2020 passed by the First Appellate Court. Accordingly, he prayed to sustain the order passed by the learned Subordinate Judge.



CRP.Nos.4052 & 4053 of 2022

WEB COPY

5. This Court has considered both side submissions and perused the materials available on record.

6. Admittedly, the Judgment and Decree passed by the First Appellate Court in A.S.No. 1 of 2020 was rendered during the COVID-19 pandemic situation. The Review Application was filed on December 20, 2021 which is also covered under the COVID-19 pandemic situation. It is opposite to cite the Hon'ble Apex Court order passed in ***In Re:*** Cognizance for Extension of Limitation with M.P.No. 29 of 2022 in M.P.No. 665 of 2021 in *Suo Motu* W.P.(C).No. 3 of 2020 which reads as follows:-

“5. Taking into consideration the arguments advanced by the learned counsel and the impact of the surge of the virus on public health and adversities faced by litigatns in the prevailing conditions, we deem it appropriate to dispose of the M.A.No. 21 of



CRP.Nos.4052 & 4053 of 2022

2022 with the following directions:-

WEB COPY

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining with effect from 01.03.2022 is greater than 30 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the Court or tribunal can condone delay) and



WEB COPY



CRP.Nos.4052 & 4053 of 2022

termination of proceedings.”

7. The impugned order is squarely covered under the COVID-19 pandemic situation. In view of the orders passed by the Hon'ble Apex Court, this Court is of the view that the Trial Court ought to have allowed the condonation of delay petition which is filed under Section 5 of the Limitation Act, 1963. Hence, this Court is inclined to allow these Civil Revision Petitions.

8. Accordingly, both the Civil Revision Petitions are allowed and the impugned orders dated October 18, 2022 dismissing the Review Application in S.R.No. 1953 of 2021 and orders passed in I.A.No. 4 of 2022 in A.S.No. 01 of 2020 by the learned Subordinate Judge, Jeyamkondam, are hereby set aside. I.A.No.4 of 2022 is allowed and the delay of 18 days is condoned. Review Application in S.R.No. 1953 of 2021 is restored. The



CRP.Nos.4052 & 4053 of 2022

WEB COPY

learned Subordinate Judge, Jeyamkondam, is hereby directed to number the Review Application if it is in order and decide the Review Application in accordance with law.

9. With the above observations, both the Civil Revision Petitions are allowed. Considering the facts and circumstances of the case, there shall be no order as to costs.

10.03.2025

pal/MSM

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To

- 1.The District Munsif Court, Jeyamkondam.
- 2.The Subordinate Judge, Jeyamkondam.
- 3.The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



CRP.Nos.4052 & 4053 of 2022

R. SAKTHIVEL, J

MSM

CRP.Nos. 4052 & 4053 of 2022



WEB COPY



CRP.Nos.4052 & 4053 of 2022

10.03.2025