



CRP No.2804 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2025

DELIVERED ON :26.09.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No.2804 of 2023

1.Vijayarani

2.Subramaniyan

.... Petitioners

Versus

Ramalingam

... Respondent

Revision filed under Section 115 of Civil Procedure Code to set aside the fair and decretal order dated 27.06.2022 made in I.A.No.1 of 2021 in O.S.No.259 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Sendurai.

For Petitioners

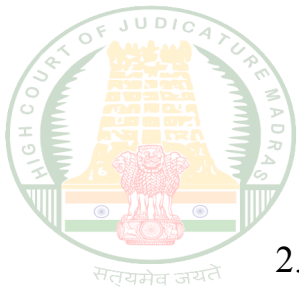
: Mr.A.Prakash

For Respondent

: Mr.S.Ramachandran

ORDER

The defendants are the revision petitioners. The defendants were set exparte in O.S.No.259 of 2016 before the District Munsif cum Judicial Magistrate Court, Sendurai.



CRP No.2804 of 2023

2. The revision petitioners/defendants have filed I.A.No.1 of 2021 seeking to condone the delay of 1042 days delay in filing the application to set aside the exparte decree. The said application was resisted by the respondent/plaintiff and the trial Court, on enquiry, found that the petitioners/defendants have not provided sufficient reasons or satisfactory explanation for the delay and proceeded to dismiss the application. Challenging the said order of dismissal of the application filed under Section 5 of the Limitation Act, the present revision has been filed.

3. I have heard Mr.A.Prakash, learned counsel for the revision petitioners and Mr.S.Ramachandran, learned counsel for the respondent.

4. Learned counsel for the revision petitioners states that the petitioners had sufficiently explained the reasons for not being able to contest the suit and the circumstances under which the suit came to be decreed exparte and the delay of 1042 days was occasioned in seeking to set aside exparte decree. Learned counsel taking me through the affidavit, would state that the entire period of delay of 1042 days has been satisfactorily explained and the trial court ought to have taken a liberal view and condoned the delay in order to



CRP No.2804 of 2023

permit the revision petitioners/defendants to defend the suit on merits.

Therefore, learned counsel would pray for the revision being allowed and opportunity may be given to the defendants to contest the suit on merits.

5. Per contra, learned counsel for the respondent would state that the petitioners/defendants were aware of the decree much earlier and they have chosen to sleep over the matter and have conveniently approached the court belatedly, that too, with false averments. He therefore states that the trial Court rightly found that the reasons assigned by the revision petitioners/defendants are neither bonafide nor acceptable and therefore prays for dismissal of the revision.

6. I have carefully considered the submissions made by the learned counsel on either side.

7. The suit filed by the respondent/plaintiff came to be decreed on 03.04.2017. The petitioners/defendants have stated that they attempted to meet their advocate but however, were not able to meet him and thereafter, the second revision petitioner had gone to Kerala, thinking that his wife/first



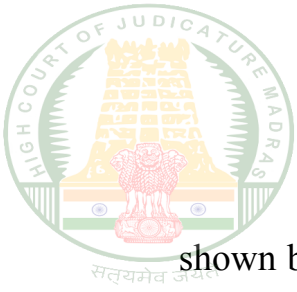
CRP No.2804 of 2023

petitioner would take care of the matter. However, his wife fell ill and was not able to follow the matter which led to the delay.

8. The petitioners have not given any dates as to when they have come to know about the exparte decree or on which dates they attempted to meet their counsel and when the second petitioner went to Kerala or any details with regard to the ill-health of the 1st petitioner/defendant, leave alone proof to substantiate the same.

9. The respondent/plaintiff has filed counter stating that after passing of the decree, the plaintiff engaged the services of the Surveyor and measured the suit property in order to fix boundary stones and the said inspection and survey was in the presence of the petitioners themselves and therefore, it is absolutely false to contend that the petitioners were never aware of the decree. The trial court has also found that the petitioners have not stated any acceptable reasons in order to condone the delay of 1042 days.

10. As already discussed, the affidavit filed in support of the petition is also vague and does not satisfy the explanation “sufficient cause” to be



CRP No.2804 of 2023

shown by the revision petitioners, in order to become entitled to condonation of delay. It is no doubt settled law that length of delay is immaterial as long as the applicant who seeks condonation of delay comes up with satisfactory explanation or sufficient cause.

11. However, in the present case, the petitioners/defendants have not shown any sufficient cause or given satisfactory explanation for their not being able to file the application to set aside the exparte decree in time. The delay of 1042 days is also inordinate as well and taking in account the fact that the respondent/plaintiff has specifically objected to the date of knowledge of the decree being stated by the petitioners, by contending that at the time of survey and measurement of the property for fixing boundary stones, after passing of the decree, the petitioners/defendants were present when the Surveyor inspected the suit property, therefore, the petitioners cannot plead ignorance of the exparte decree passed and their application, belatedly, is clearly unsubstantiated and unexplained.

12. Therefore, I do not find any ground made out to interfere with the order of the trial court. Therefore, the civil revision petition is dismissed. No



CRP No.2804 of 2023

costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

26.09.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
sr

To
The District Munsif cum Judicial Magistrate, Sendurai



WEB COPY



CRP No.2804 of 2023

P.B.BALAJI,J.

sr

Pre-Delivery Order in
CRP No.2804 of 2023

26.09.2025