



CRP.No.4582 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:28.10.2025

Pronounced on: 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.4582 of 2025

H.Rajabhunisha

Petitioner(s)

Vs

S.Anbalagan

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order dated 29.07.2025 in I.A. No.1 of 2023 in A.S. CFR. No.4485 of 2023 passed by the learned Principal District Judge, Coimbatore.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.S.S.Swaminathan

ORDER

The revision petitioner is the appellant in unnumbered Appeal in A.S.CFR. No.4485 of 2023 on the file of the Principal District Court, Coimbatore. In the said Appeal, the petitioner had filed an application for condonation of delay of 1770 days in preferring the Appeal, challenging the order dated 23.10.2017 in O.S. No.999 of 2016, rejecting the plaint in suit for specific performance.



2. I have heard Mr.L.Mouli, learned counsel for the petitioner and Mr.S.S.Swaminathan, learned counsel for the respondent.

3. Mr.L.Mouli, learned counsel for the petitioner would submit that the revision petitioner had filed a suit for specific performance of an agreement of sale dated 15.10.2003 in O.S. No.999 of 2016. An application was taken out in the said suit seeking rejection of the plaint and the same came to be allowed by the Trial Court. Challenging the dismissal of the suit, the petitioner filed C.M.A. No.3 of 2021, which came to be dismissed on 19.11.2024. Even pending the C.M.A, on the advise of the counsel, the petitioner has filed the First Appeal, alongwith the application to condone the delay of 1770 days. Mr.L.Mouli, learned counsel for the petitioner would therefore state that the petitioner was agitating the rejection of the plaint in an appeal upto November 2024 and even before disposal of the appeal, the First Appeal came to be filed and hence, the petitioner cannot be accused of being careless or not diligent.



4. Mr.L.Mouli, learned counsel for the petitioner would further contend that the delay has also been sufficiently explained by the petitioner, by marking photo copies of the appeal grounds in C.M.A. No.3 of 2021 as Ex.P1 and the decree passed on 19.11.2024 in the said C.M.A. as Ex.P2. He would also bring to my notice that by inadvertence, the appeal has been filed challenging the judgment and decree passed in the suit, without challenging the order passed in the rejection of plaint application. The learned counsel would therefore state that since the petitioner has been prosecuting the matter in a wrong Forum, lenience may be shown and he may be given an opportunity to challenge the rejection of the plaint order, in a manner known to law.

5. Per contra, Mr.S.S.Swaminathan, learned counsel for the respondent would submit that the very suit for specific performance was filed based on an alleged agreement of sale entered into in the year 2003 and the said suit was however filed only in the year 2016 and the petitioner was in fact occupying the suit property as a tenant and in 2017, the respondent had initiated eviction proceedings before the Rent Control Court and pursuant to the eviction order passed in the year 2018,



possession has also been taken by the respondent, through Court process. Though an application was filed to set aside the exparte order passed in the Rent Control Proceedings and the Court also thought it fit to give an opportunity to the petitioner to contest the proceedings by allowing the application on payment of costs of Rs.1000/-, the cost was not paid and consequently, the eviction proceedings have also attained finality. Mr.Swaminthan, would further state that the petitioner has been in the habit of changing counsel every now and then and the present counsel is the third counsel and further, the tenant was squatting on the property, till he was dispossessed, without even paying any rents, taking advantage of the agreement of sale being projected.

6. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order impugned in the present revision petition.

7. No doubt, the petitioner's suit for specific performance was dismissed, while allowing an application filed by the respondent on the ground that the plaint was liable to be rejected under Order VII Rule 11



CPC. Pursuant to the dismissal of the suit, the petitioner has filed C.M.A.

No. 3 of 2021, but the said C.M.A was dismissed on 19.11.2024, confirming the dismissal of order in the Application seeking rejection of the plaint. In the interregnum period the petitioner claims that, on legal advice, he has filed the appeal along with the condonation of delay petition. Despite being advised about the proper course of remedy, according to the petitioner, being an appeal and not C.M.A., the petitioner has not chosen to withdraw the C.M.A, and on the contrary, he has invited an order to be passed on merits and the C.M.A was dismissed, confirming the order of rejection of the plaint on 19.11.2024. Therefore, at this juncture, the petitioner cannot be allowed to claim that he was diligently prosecuting the C.M.A., and therefore, the delay has occasioned.

8. Further, as rightly pointed out by the learned counsel for the respondent, the petitioner has already suffered an order of eviction before the Rent Control Court and possession has also been taken from the petitioner. Though the rejection of the plaint application was allowed exparte, the petitioner filed I.A. No.27 of 2018 to set aside the exparte



order in I.A. No.1051 of 2016. The said I.A. No.27 of 2018 was also dismissed on 24.06.2019. Challenging the said order, C.M.A.No.3 of 2021 was filed. As already discussed, the order in I.A. No.27 of 2018 was confirmed with the dismissal of C.M.A. No.3 of 2021, on 19.11.2024. It is thus clear that the petitioner has run the risk of keeping the C.M.A. pending, despite having chosen to prefer an appeal along with a delay of 1077 days. Unfortunately, for the petitioner the C.M.A. came to be dismissed on 19.11.2024 and thus the order in the reject the plaint application became final. Therefore, there is absolutely no bonafides on the part of the petitioner and it is not even proper or fair on the part of the petitioner to contend that he was pursuing the C.M.A proceedings and on being advised that an appeal was the proper remedy, he immediately filed the appeal along with an application for condonation of delay. If really the petitioner's contention is to be believed, the petitioner would not have taken a chance by keeping the C.M.A. pending, and inviting adverse orders as late as in November 2024. Further, as rightly pointed out by the learned counsel for the respondent, the petitioner was admittedly a tenant in the property and he claims under an agreement of sale of the year 2003, which was never sought to be enforced upto the year 2016 and



taking advantage of the proceedings, the petitioner had also conveniently stop paying rents as well.

9. In the light of the above, I do not find any merit or bonafides on the part of the petitioner to contend that he has sufficient cause to have the delay of 1770 days condoned. I also do not find any merit or infirmity in the findings of the First Appellate Court, dismissing the application for condonation of delay of 1770 days. In fine, the Civil Revision Petition is dismissed. No costs.

07.11.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The Principal District Judge, Coimbatore.



WEB COPY



CRP.No.4582 of 2025

P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. No.4582 of 2025

07.11.2025