



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 07.11.2025

Order pronounced on : 14.11.2025

CORAM

**THE HONOURABLE MR JUSTICE P.B. BALAJI**

CRP.No.4952 of 2024

Nagaraj

... Petitioner

Vs.

1.Josephine Kingslyn Mary  
2.Antony Joseph  
3.Gregory  
4.Caspar (Died)  
5.Elyas @ Anand  
6.Sagayaraj

... Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 25.09.2024 in I.A.No.2 of 2022 in O.S.No.109 of 2011 on the file of the Principal Sub Court, Jayankondam.

For Petitioner : Mr.M.Manimaran

For Respondents : Mrs.S.Vijaya  
for M/s.Lane Legal for RR1 to 3  
R4 Died  
R5 No appearance  
R6 Note ready in notice



## **ORDER**

The plaintiff in O.S.No.109 of 2011 before the Principal Sub-Court, Jayamkondam, is the revision petitioner.

2.The suit filed by the revision petitioner was dismissed for non prosecution and the suit was sought to be restored to file, along with an application to condone delay of 1104 days in filing the application. The Trial Court dismissed the application, as against which, the present revision petition is filed.

3.I have heard Mr.M.Manimaran, learned counsel for the petitioner and Mrs.S.Vijaya for M/s.Lane Legal, learned counsel for the respondents 1 to 3.

4.The learned counsel for the petitioner would submit that the Trial Court has failed to see that the petitioner had prayed for substantial reliefs in the suit and therefore, the plaintiff would not wantonly leave the suit for dismissal on account of non prosecution. He would further contend that the Trial Court failed to see that even the respondents had chosen to remain



exparte and atleast on that score should have thought it fit to condone delay and give an opportunity to the petitioner to prosecute the suit on merits.

5.Per contra, the learned counsel Mrs.Vijaya, appearing for the respondents would submit that Trial Court has rightly found that the delay of 1104 days is not only long but also inordinate and the same has not been properly explained. She would therefore pray for dismissal of the Civil Revision Petition.

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

7.Admittedly, the revision petitioner is the plaintiff, who came to Court seeking relief of declaration of title and permanent injunction. The said suit came to be dismissed for non-prosecution on account of non-appearance on the side of the revision petitioner. It is the specific case of the revision petitioner that his counsel had passed away and the petitioner was also thereafter suffering from jaundice and could not ascertain the status of their suit immediately. However, on recovering and contacting the office of lawyer engaged by the petitioner, he came to know about the dismissal of



the suit and an application was filed on 07.09.2022.

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8.The intervening Covid period, which has been exempted by the Hon'ble Supreme Court, can also be considered in favour of the revision petitioner in the present case. When admittedly, the fact that the learned counsel for the petitioner had passed away is not even disputed by the respondents and the respondents also did not choose to contest the application, the Trial Court ought to have exercised discretion and condoned the delay.

9.In any event, the suit is one for declaration and permanent injunction and the plaintiff, who came to Court is not going to be attempting to protract the proceedings in a suit of this nature. Viewed from this angle also, the delay ought to have been condoned. However, at the same time, the prejudice caused to the respondents is to be compensated by way of costs. Considering the length of delay and the explanation offered, I am inclined to allow the revision on payment on costs of Rs.10,000/- (Rupees Ten Thousand only).

10.In fine, this Civil Revision Petition is allowed. Consequently, the order dated 25.09.2024 in I.A.No.2 of 2022 in O.S.No.109 of 2011 on the



file of the Principal Sub Court, Jayankondam, is set aside, subject to the petitioner paying a sum of Rs.10,000/- to the respondents 1 to 3, before the Trial Court, within a period of two (2) weeks from the date of receipt of the copy of the order.

14.11.2025

Neutral Citation: Yes/No  
Speaking Order/Non-speaking Order  
Index : Yes / No  
rkp/ata

To  
The Principal Sub Court, Jayankondam.

**P.B. BALAJI,J.**

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Pre-delivery order made in  
CRP.No.4952 of 2024

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