



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 30.10.2025

Order pronounced on : 14.11.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJICRP.Nos.617 & 618 of 2025CRP.No.617 of 2025:

1.P.Dineshchand
2.P.Sandeep
3.P.Gyanchand

... Petitioners

Vs.

1.Ellamma
2.Logamma
3.The Tahsildar,
1,First Cross Street, New Kumaran Nagar,
Sholinganallur, Chennai – 119.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the dismissal order dated 08.11.2024 and restore the suit in O.S.No.577 of 2024 on the file of the District Munsif cum Judicial Magistrate, Sholinganallur.

For Petitioners : Mr.P.Sunil
for Mr.K.P.Shanthosh

For Respondents : Ms.M.Muthu Yazhini for RR1 & 2
Mr.N.Muthuvel
Government Advocate for R3



CRP.No.618 of 2025:

P.Sandeep

... Petitioner

Vs.

1.V.Dhayalan
2.D.Mythili
3.V.Saranya
4.D.Lavanya
5.D.Meena
6.V.L.Dhandapani

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the dismissal order dated 25.10.2024 and restore the suit in O,S.No.295 of 2024 on the file of the District Munsif cum Judicial Magistrate, Sholinganallur.

For Petitioner : Mr.P.Sunil
for Mr.K.P.Shanthosh

For Respondents : Mr.V.Sundar Raman for R6
RR2 to 4 unclaimed
R3 Insufficient address
No appearance for R5

COMMON ORDER

The plaintiffs in O.S.Nos.577 of 2024 and O.S.No.295 of 2024 on the file of the District Munsif cum Judicial Magistrate, Sholinganallur, are the



revision petitioners, aggrieved by the dismissal of the above mentioned suits for default.

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2.I have heard Mr.P.Sunil for Mr.K.P.Shanthosh, learned counsel for the petitioner in both the revision petitions and Ms.Muthu Yazhini, learned counsel for the respondents 1 and 2 and Mr.Muthuvel, learned Government Advocate for the 3rd respondent in CRP.No.617 of 2025; and Mr.V.Sundar Raman, learned counsel for the 6th respondent in CRP. No.618 of 2025.

3.Mr.P.Sunil, learned counsel for the revision petitioners would submit that the suits were originally filed before the Alandur Court and on account of a change in territorial jurisdiction, the suits were transferred to the District Munsif cum Judicial Magistrate, Sholinganallur, where they were re-numbered. The grievance of the petitioners is that upon such transfer and re-numbering, no notice was served on the petitioners or their counsel and therefore, unaware of the new suit number as well as the hearing date, the petitioners did not appear and the suits came to be dismissed for non-prosecution.



4.Mr.P.Sunil, learned counsel for the revision petitioners, taking me through the e-court site pertaining to the present suits, would submit that even after transfer of the suits, the transferee Court has only ordered notice to both parties, upto 25.10.2024 on which date, the suit has been dismissed for non-prosecution. Similarly, in other suit also, from 18.03.2024, the date of transfer, the transferee Court has only directed Court notice to both parties and on 08.11.2024, finding that there is no representation on behalf of the plaintiff, the suit has been dismissed for non prosecution.

5.Mr.P.Sunil, learned counsel for the petitioners would submit that this Court has repeatedly held that when there is transfer of a suit or proceedings from one Court to another Court, then the parties are entitled to receive notice. He would rely on the decision of this Court in *Ellapuram Panchayat Union, Periapalayam Vs. Shri Bhavaniammal Devasthanam*, reported in 1981 (94) LW 256, where this Court held that whenever there is transfer of a case from one Court to the other, a notice to that effect should be given to the parties informing them about the transfer, though no provision to such effect was found either under the Code of Civil Procedure or under the Civil Rules of Practice. This decision was followed by an other



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decision of this Court in *Dayanandhini Vs. K.Mala*, reported in *CMA.No.2460 of 2015* dated *14.02.2019*, where again, this Court held that notice was necessary, consequent to transfer of proceedings and also directed the Registry to circulate the judgment of this Court in *Ellapuram's case* (referred herein supra) to all Civil Courts, with instructions to issue notice to the parties on transfer of suits, on account of constitution of new Courts or bifurcation of jurisdiction or transfer of cases due to the change in pecuniary jurisdiction or territorial jurisdiction or even in the case of a transfer due to workload.

6.Recently, this Court, in *Rajaram (Died and others Vs. Kanniga Parameswari and others*, in *CRP(NPD).No.3822 of 2018* dated *20.10.2023*, held that sitting in revision under Article 227 of the Constitution of India, the Court cannot close its eyes to an illegal order, even though subsequently, based on such illegal order, a final decree was passed and even the EP was also terminated.

7.In *Jang Singh Vs. Brij Lal and another*, reported in *AIR (Supreme Court) 1631*, the Hon'ble Supreme Court held that no act of Court should



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harm a litigant and if at all, any person is prejudiced by mistake of the Court, then he should be restored to the position, he would have occupied but for that mistake. The learned counsel would therefore pray for the revisions being allowed.

8.Per contra, the learned counsel appearing for the contesting respondents, Mr.B.Sundar Raman, and Ms.Muthu Yazhini, would submit that no doubt, the revision petitioners were entitled to notice and transfer and there can be no second opinion about the same. However, according to them, the petitioners ought not to have directly approached this Court under Article 227 of the Constitution of India and the proper remedy was only to seek setting aside the order of dismissal of the suit for default.

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

10.It is an admitted position, not only borne out of records, but also from the arguments of the learned counsel on either side that upon transfer and re-numbering of the suit, without notice being served on the revision



petitioners, the suits came to be dismissed for default. This Court, as early as in *Ellapuram's case* (referred herein supra) has held that upon transfer of any proceedings, the parties are entitled to be served with notice. This Court following the said decision in *Dayanandhini's case* (referred herein supra) also directed the Registry to circulate judgment in *Ellapuram Panchayat's case*, to all Civil Courts to be strictly followed and notices to be issued to the parties concerned upon transfer of suits. This circular was very much in force and the Trial Court cannot feign ignorance of the same.

11. In fact, by its own conduct, the Trial Court repeatedly adjourned the suits only for serving notice on both the parties. However, suddenly on the date on which the suits came to be dismissed for default, even though notice was not served on the parties or the counsel, the Court has unilaterally proceeded to dismiss the suit for non prosecution. Such an approach is clearly unwarranted and perverse.

12. Having directed notices to be served in the suit after transfer, the Court should have gone through the process and brought it to a logical end. Suddenly, out of the blue, on a particular date, the Court ought not to have



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dismissed the suit for non prosecution, citing no representation on the side of the revision petitioners. Even as directed by the Trial Court, notices had not been served. The Hon'ble Supreme Court in *Achutananda Baidya Vs. Prafulla Kumar Gayen and others*, reported in 1997 (5) SCC 76, held that the power of superintendence of the High Court under Article 227 of the Constitution of India is not confined to administrative superintendence alone, but such power includes within its sweep, the power of judicial review also, to ensure that the Courts and Tribunals have done what they are required to do.

13.The Hon'ble Supreme Court further held that the High Court can interfere under Article 227 of the Constitution of India where there is erroneous assumption of jurisdiction, acting beyond jurisdiction, refusal to exercise jurisdiction, error of law apparent on record, arbitrary or capricious exercise of authority or discretion, patent error of procedure, arriving at a finding, which is perverse, based on no material or resulting in manifest injustice.



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14. In *Roshan Deen Vs. Preeti Lal*, reported in AIR 2002 SC 33, the Hon'ble Supreme Court held that the power conferred on the High Court under Article 226 and 227 of the Constitution of India is to advance justice and not to thwart it and the High Court should ensure that no man should be subjected to injustice, on account of violation of law and the look out of the High Court is not merely to pick any error of law from the academic angle, but also see it to it that wherever injustice has resulted on account of erroneous interpretation of law, then, no man should be subjected to injustice, on account of law being violated.

15. In *Ramesh Chandra Sankla Vs. Vikram Cement etc*, reported in (2008)14 SCC 58, the Hon'ble Supreme Court held that the power of superintendence under Article 227 of the Constitution of India confers on every High Court, over all Courts and Tribunal throughout the territories, in relation to which it exercise as jurisdiction, is very wide and discretionary and can even be exercise *ex debito justitiae*, in order to meet the ends of justice and the High Court not only acts of the Court of law but also Courts of equity and it is the duty of the High Court to ensure that such power must advance the ends of justice and approve injustice.



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16.The Hon'ble Division Bench of the Calcutta High Court in *Mira Banik and another Vs. Smita Bhattacharya and others*, reported in 2005 *Calcutta Weekly Notes* 698, held that the power of superintendence of the High Court includes the power to see whether the Courts and Tribunals do what their duty requires and that they do it in a legal manner and that under Article 227, the High Court can even exercise suo motu power.

17.The Hon'ble Supreme Court, in *Mariamamma Roy Vs. Indian Bank and others*, reported in 2009 (16) SCC 187, held that when the appellant was not issued with any notice, the High Court was not justified in dismissing the Writ Petition and held that even if an alternate remedy was available to the aggrieved party, when there has been a violation of principles of natural justice, the High Court erred in dismissing the Writ Petition, without addressing the violations complained of viz., non service of notice.

18.From the ratio laid down in the above cases, it is clear that though the petitioners had an effective alternate remedy, by filing an application



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before the Trial Court seeking to set aside the dismissal of the suit for non prosecution, when the Trial Court has not followed the ratio laid down by this Court in *Ellapuram's case* (referred herein supra), more specifically, when this Court in *Dayanandhini's case* (referred herein supra), had also directed the Registry to circulate the decision in *Ellapuram Panchayat's case*, this Court certainly can take note of the error committed by the Trial Court which has resulted in serious and grave prejudice to the revision petitioners. In the light of the above, I am inclined to exercise the power available under Article 227 of the Constitution of India and set aside the orders dismissing the suits for non prosecution.

19. In fine, the Civil Revision Petitions are allowed. The suits in O.S.Nos.577 of 2024 and O.S.No.295 of 2024 on the file of the District Munsif cum Judicial Magistrate, Sholinganallur, are restored to file and the suits shall be called before the Trial Court viz., the Principal District Munsif cum Judicial Magistrate, Sholinganallur on 01.12.2025. As the learned counsel for the petitioners, as well as the contesting respondents are now aware of the hearing date of the suits, they shall instruct their respective clients to enter appearance and proceed with the suit and the Trial Court



shall dispose of the suit, as expeditiously as possible, on merits and in accordance with law. There shall be no order as to costs.

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14.11.2025

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

District Munsif cum Judicial Magistrate, Sholinganallur



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P.B. BALAJI,J.

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Pre-delivery order made in
CRP.Nos.617 & 618 of 2025

14.11.2025