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CRP.No.5228 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:09.12.2025

Pronounced on:19.12.2025

CORAM

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

**CRP. No.5228 of 2024  
and CMP. No.27450 of 2025**

M.Ganesan

Petitioner/  
1<sup>st</sup> respondent in CMP. No.27450 of 2025

Kongu Vellala Nattu Goundergal Kuttamaippu,  
Represented by its Managing Trustee,  
S.Chandrasekar.

Petitioner in CMP. No.27450 of 2025

Vs

A.Subbaraya Gounder (died)  
1.R.Athiyappan  
2.A.Dhanasekaran  
3.Palanivel  
Siyali Chidambaram (Died)  
4.The Commissioner,  
HR & CE Department,  
Uthamar Gandhi Road,  
Chennai -34.  
5. The Executive Officer,  
Arulmigu Athannoramman Temple,  
Athanur, Rasipuram Taluk,  
Namakkal District.  
6.Chezhiyan @ Sengodan  
7.Elumalai  
8.V.S.Balakrishnan  
9.Namasivayam  
10.Aru.Arthanari  
11.A.K.Natesan  
12.Palanisamy  
13.P.Nalliyappan  
14.P.Sundaram

Respondent(s)/



CRP.No.5228 of 2024

respondents 2 to 15 in CMP. No.27450 of 2025

**PRAYER in CRP No.5228 of 2025 :** This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and final order dated 18.10.2024 in I.A. No.1 of 2019 in O.S. No.139 of 2008 on the file of the Subordinate Judge, Rasipuram.

**PRAYER in CMP No.27450 of 2025 :** This Civil Revision Petition is filed under Order 1, Rule 10(2) of the Code of Civil Procedure, to implead the petitioner/proposed respondent as a 15<sup>th</sup> respondent in CRP. No.5228 of 2024.

For Petitioner : Mr.Balaji for  
Mr.A.Thiyagarajan

For Respondents : Mr.P.Muthu Samy for R6  
Mr.V.Ramesh,  
Government Advocate for R4 & R5  
Mrs.R.Jeevitha for  
impleading respondent  
in CMP. No.27450 of 2025  
No Appearance for R1, 7 and 12  
Died- R8, 9, 10 & 11  
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### **ORDER**

The 5<sup>th</sup> plaintiff is the revision petitioner. The present revision petition seeks to set aside an order in I.A.1 of 2019 in O.S.139 of 2008, in and by which a delay of 1013 days in filing the petition to restore the suit to file was dismissed.

2.I have heard Mr.Balaji for Mr.A.Thiyagarajan, learned counsel for the revision petitioner and Mr.P.Muthusamy, learned counsel for the 6<sup>th</sup> Respondent. Mr.V. Ramesh, learned Government Advocates for



respondents 4 and 5 and Mrs.R.Jeevitha, learned counsel for the Applicant in C.M.P. No.27450 of 2025 for impleading the petitioner as the 15<sup>th</sup> respondent in the revision.

3. The learned counsel for the revision petitioner would contend that the suit in O.S.139 of 2008 has been filed to set aside the order of the Commissioner, H.R.&C.E Department in A.P.No. 36 of 2001 dated 17.12.2004 and to declare that the Vizhiyan Kualm Nattu Gounders community of Rasipuram Taluk in Namakkal District is entitled to manage the affairs of the suit temple. Inviting my reference to the fact that the suit was dismissed for non-prosecution and that amongst the surviving plaintiffs, it is only the revision petitioner who is interested to restore the suit for protecting the rights of the community. The learned counsel would state that the petitioner was aged 76 years even at the time of filing the application and he had assigned sufficient reasons for non-appearance.

4. The learned counsel further stated the petitioner's son suffered a snake bite and he had to be treated for more than two months continuously and despite the best of treatment provided to him, at various places, his son died on 22.10.2016. The learned counsel therefore states



that the Trial Court has not adopted a liberal approach while deciding the condone delay application, especially when the petitioner had also exhibited documentary evidence to substantiate the reasons set out for the delay. The learned counsel would further state that the petitioner is not having any personal motive and he is only espousing the cause of the community and therefore ,an opportunity may be given to the petitioner to have the suit restored to file, so that the suit can be disposed of on merits, after elaborate trial.

5. In C.M.P.No.27450 of 2025, the learned counsel for the Petitioner seeks to implead the petitioner Trust as the 15<sup>th</sup> respondent in the revision. Inviting my attention to the objects of the Trust, the learned Counsel would state that the petitioner is a proper and necessary party, especially since none of the plaintiffs have shown any keen interest in prosecuting the suit and she would therefore pray for the impleading application to be ordered.

6. Per contra, Mr.P.Muthusamy, learned counsel for the 6<sup>th</sup> respondent, would submit that there was absolutely no sufficient cause made out by the petitioner and the Trial Court has elaborately discussed the reasons assigned by the petitioner for delay and has rightly dismissed the application. Insofar as the impleading application, the learned counsel



would submit that admittedly the impleading applicant Trust is not a party in the suit and therefore, the said Trust cannot seek impleadment in the present revision petition, which is only arising out of a dismissal of an application under Section 5 of the Limitation Act. He therefore prays for dismissal of the C.R.P. as well as the C.M.P.

7. I have carefully considered the submissions advanced by learned counsel for the parties. I have also gone through the records, including the typed set of papers filed in the present Civil Revision Petition as well as C.M.P. No.27450 of 2025.

8. The revision petitioner along with four other persons filed an Application in O.A.51 of 1988 under Section 64(1) of the H.R.&C.E Act. The Joint Commissioner, by an order dated 10.10.2001, dismissed the same and challenging the said order of the Joint Commissioner, the appeal was preferred before the Commissioner, H.R.&C.E, in A.P.No. 36 of 2001. The said appeal was dismissed on 17.12.2004. Challenging the order of the Commissioner in A.P.No. 36 of 2001, a suit in O.S.No. 139 of 2008, came to be filed in Sub Court, Rasipuram under Section 70 of the H.R.&C.E Act. The said suit came to be dismissed for non-prosecution on 07.03.2016. Thereafter, along with an application to condone delay of 1013 days, the revision petitioner sought to have the



suit restored to file, invoking Order 9 Rule 9 C.P.C in I.A.No.1 of 2019.

The Trial Court finding that the petitioner had not explained the delay to the satisfaction of the Court, dismissed the application.

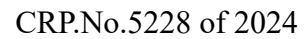
9. The main argument of the learned counsel for the petitioner is that, the petitioner was diligent in prosecuting the suit, however because of the unexpected and unfortunate snake bite incident, as already discussed herein above, he was not in a position to appear and proceed with the suit before the Trial Court. Exhibit P1, Hospital estimated cost for kidney transplant has been marked along with the death certificate of the petitioner's son, as Exhibit P2.

10. The suit was admittedly dismissed for non-prosecution on 07.03.2016. The application to set aside the dismissal of the suit and to restore the same was filed on 15.02.2019. On going through the affidavit in I.A.No. 1 of 2019, I find that the revision petitioner has only offered explanation for non-appearance on 07.03.2016 and there is absolutely not a single reason attempting to even explain the delay that has occurred thereafter, that is up to 15.02.2019. Admittedly, the reason that is assigned for the delay revolves around the petitioner's son having being bitten by a snake and his kidney having failed consequently, which led to the situation where the petitioner could not follow up the case. The



petitioner's son admittedly died on 22.10.2016. However for almost three years, the petitioner did not take out an application to restore the suit to file. The Trial Court has also rightly found that Exhibit P1, does not further the cause of the revision petitioner to explain the inordinate delay of 1013 days. Equally, there is nothing brought on record by the petitioner as to why the other plaintiffs have not followed up the suit and the Trial Court therefore rightly held that the petitioner's actions demonstrated lack of diligence in prosecuting the suit. In fact, the Trial court has also noticed that despite the suit having been filed in 2008 and pending for trial since 2013, the plaintiffs have not chosen to lead evidence and the suit was allowed to be dismissed for default on two occasions. I do not see any perversity in the findings by the Trial Court passed in interference revision.

11. Insofar as C.M.P.No.27450 of 2025, admittedly the petitioner Trust is not a party to a suit which is a statutory suit under the H.R.&C.E Act and therefore, mere filing an application for impleadment in the revision, that too, challenging an order dismissing an application under Section 5 of the Limitation Act will not in any manner strengthen the case of the impleading applicant to canvass before this Court that his presence is proper and necessary to decide this revision petition. As rightly pointed by 6<sup>th</sup> respondent, Mr.P.Muthusamy, that the impleading petitioner is



12. In fine, the Civil Revision Petition and also the Civil Miscellaneous Petition for impleadment are dismissed. No order as to costs.

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Index : Yes
Internet : Yes
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The Subordinate Judge, Rasipuram.

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**Pre-delivery order in**  
**CRP. No.5228 of 2024**  
**and CMP. No.27450 of 2025**

**19.12.2025**