



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

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CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

**CRP No. 177 of 2025
and CMP No.1262 of 2025**

K.Sakunthala

Petitioner

Vs

M.Velusamy

Respondent

PRAYER

Petition filed under Article 227 of the Constitution of India, seeking to set aside the fair and decretal order dated 21.09.2024 made in I.A.No. 1633 of 2023 in AS. CFR No.10660 of 2023 on the file of the First Additional District and Sessions Court, Tiruppur.

For Petitioner : Ms.M. Adhishree,
for Mr. N.Manokaran

For Respondent: Mr.G.Ethirajulu

ORDER

The order dismissing the Application seeking to condone the delay of 1330 days in filing the Appeal Suit has been put to challenge in the present civil revision petition.

2. Brief facts of the case are as under:-

i) The petitioner is the defendant in the suit in O.S.No.254 of 2018 on the file of the Sub-Court, Palladam. The suit was filed by the respondent herein for specific performance and permanent injunction and it came to be decreed, after contest, on 18.12.2019.

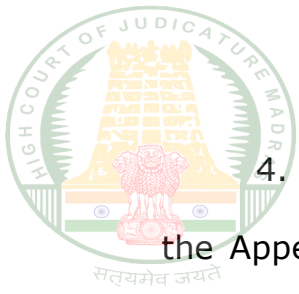


ii) Though the petitioner ought to have filed the appeal within 60 days from the date of the decree, she had filed the same in A.S. CFR.

No.10660 of 2023 along with I.A.No.1633 of 2023 under Order XLI Rule 3-A of the Civil Procedure Code (CPC), 1908 on the file of the First Additional District and Sessions Court, Tiruppur, seeking to condone the delay of 1330 days.

iii) The Appellate Court had dismissed the said application on the ground that the petitioner had not shown any sufficient cause to condone the enormous delay of 1330 of days, against which, the present Civil Revision Petition has been filed.

3. Learned counsel for the petitioner submits that the petitioner, being a lady was not aware of the procedure to follow up the case, especially, when her counsel had informed her that copy of the judgment and decree could not be obtained due to misplace of case bundle and that and she was not properly advised and thereby there was a delay of 1330 days in preferring the appeal. Contending that the petitioner has got a good case, the learned counsel for the petitioner would submit that the delay on the part of the petitioner is neither wanton nor deliberate, however, he would submit that there were some lapses on the part of the petitioner and thereby in order to show her *bona fide*, the petitioner is ready and willing to deposit a sum of Rs.10 Lakhs to the credit of O.S.No.254 of 2018 on the file of the Sub-Court, Palladam within a specific time as may be fixed by this Court.

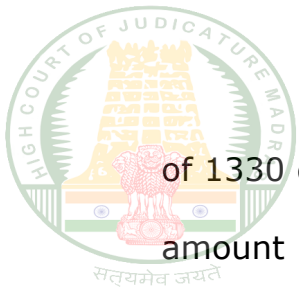


4. Per Contra, learned counsel for the respondent would submit that the Appellate Court had rightly found that the delay was deliberate and thereby, dismissed the application. He would submit that the respondent had filed an Execution Petition in E.P.No.79 of 2022 for execution of the sale deed and when the case was posted for appearance of the petitioner either in person or through counsel, the petitioner had appeared on 21.03.2023, however, the appeal was filed by her only on 12.09.2023 with an inordinate delay to protract the execution proceedings and thereby the order passed by the court below does not warrant any interference.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Though this Court finds that there were some lapses on the part of the petitioner, this Court is of the opinion that the delay can be condoned as the petitioner is ready and willing to deposit a sum of Rs.10 lakhs before the trial Court to show her *bona fide*.

7. In view of the above, without going into the merits of the case, this Court is inclined to allow the Civil Revision Petition. Accordingly, this Civil Revision Petition is allowed. The order passed by the learned First Additional District and Sessions Judge, Tiruppur, in I.A.No.1633 of 2023 in A.S.CFR.No.10660 of 2023 dated 21.09.2024, is set aside and the delay



of 1330 days is condoned on condition that the petitioner shall deposit the amount of Rs.10 Lakhs to the credit of O.S.No.254 of 2018 on the file of the Sub-Court, Palladam. On such deposit being made and proof of payment being produced before the Appellate Court, the Appeal shall be numbered and the respondent shall appear before the Appellate Court on **16.07.2025** and thereafter, the Appellate Court shall take every endeavour to dispose of the appeal within four weeks from **16.07.2025**.

8. It is made clear that the petitioner shall deposit the said amount of Rs.10 Lakhs on or before 30.06.2025, otherwise the application in I.A.No.1633 of 2023 in AS. CFR No. 10660 of 2023 on the file of the First Additional District and Sessions Court, Tiruppur, will stand dismissed automatically without any further reference to this Court. No costs. Consequently, the connected miscellaneous petition is also closed.

29-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
klt/ssk



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CRP No. 177 of 2025



A.D.JAGADISH CHANDIRA J.

klt/ssk.

To

- 1.The First Additional District
and Sessions Court,
Tiruppur.
- 2.The Sub-Court,
Palladam.

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