



C.R.P.No.6355 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.6355 of 2025
and C.M.P.No.31501 of 2025

1.Palanisamy
2.Sumathi

... Petitioners

vs.

Kaveriammal @ Pappammal (died)
Tmt.Arukkani @ Pappathi (died)
Ponnusamy (died)
1.Kalavathy
2.Kumar
3.Savithiri
4.Manikam
5.Balasubramaniam
Unnathal (died)
Thirumoorthy (died)
6.Bhakiyalakshmi
7.Dineshkumar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 04.02.2025 made in I.A.No.16 of 2024 in O.S.No.131 of 2009, on the file of the learned I Additional District and Sessions Judge, Tiruppur.

For Petitioners : Mr.N.Mayilsamy



C.R.P.No.6355 of 2025

ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioners in I.A.No.16 of 2024 seeking to restore I.A.No.1237 of 2018 which was filed to condone the delay in filing another restoration petition, which intun was filed to restore I.A.No.640 of 2013 which was intun filed to condone the delay in filing petition to set aside ex-parte decree dated 03.12.2009.

2. The respondents 1 and 2 filed a suit for partition against the petitioners and other respondents. Owing to non-appearance of petitioners, who are arrayed as defendants 4 and 5, an *exparte* preliminary decree was passed on 03.12.2009. Thereafter, the petitioners filed an application to set aside the ex-parte preliminary decree along with petition to condone the delay of 988 days in filing the said petition in I.A.No.640 of 2013. The said petition was filed on 17.09.2012 and the same was dismissed for default on 06.09.2014.

3. The petitioner thereafter filed yet another application to restore the above mentioned I.A which was dismissed for default. The said application was filed only on 15.08.2018. Since there was a delay on 1656 days, an



C.R.P.No.6355 of 2025

application was filed to condone the delay of 1656 days in filing petition to restore I.A.No.640 of 2013 which was dismissed for default. The said condone delay petition in I.A.No.1237 of 2018 was again dismissed for default on 20.03.2023 for the failure of the petitioner to file amended petition copy.

4. Again petitioner filed yet another application to restore I.A.No.1237 of 2018 in I.A.No.16 of 2024.

5. In the affidavit filed in support of the said petition, it was stated by the petitioner that he was sick and suffering from jaundice, hence, he could not attend the Court on 20.03.2024 and due to his absence, the application was dismissed for default on 20.03.2024. In fact, in para No.3, he stated that I.A.No.1237 of 2018 was dismissed on 20.03.2023. However, in para No.4, he mentioned dismissal date as 20.03.2024. Therefore, there is no clarity with regard to the date of dismissal of I.A.No.1237 of 2018. Be that as it may, the reason given by the petitioner was sickness.

6. It is interesting to note, after passing of ex-parte preliminary decree on 03.12.2009, the petitioner filed I.A.No.640 of 2013 to condone the



C.R.P.No.6355 of 2025

delay of 988 days in filing petition to set aside the ex-parte decree. The said petition was dismissed for default on 06.01.2014 for failure of the petitioner to take steps and file batta. Thereafter, he filed petition to restore the I.A.No.640 of 2013 along with petition to condone the delay of 315 days. The said condone delay petition was numbered as I.A.No.107 of 2015 and subsequently, re-numbered as I.A.No.1553 of 2015 and the same was dismissed for default on 02.11.2015. Suppressing the said dismissal order, the petitioners filed yet another petition to restore I.A.No.640 of 2013 along with fresh condone delay petition to condone the delay of 1656 days and the same was numbered as I.A.No.1237 of 2018 and again it was dismissed for default on 20.03.2024. Now, the instant application has been filed by the petitioner to restore I.A.No.1237 of 2018 stating that he was suffering from Jaundice.

7. Though, the petitioners filed an application to set aside the ex-parte decree as early as 2012, they have not prosecuted the same diligently and allowed the same to go for default and number of petition have been filed to restore the said application with enormous delay.



C.R.P.No.6355 of 2025

8. The contesting respondents/plaintiffs also filed counter denying the averment made by the petitioner regarding sickness. Even after denial of the same, the petitioners have not chosen to lead any oral or documentary evidence to substantiate the plea of sickness. In the absence of any concrete evidence to support the sickness pleaded by the petitioners and considering the various previous applications filed by the petitioners, the trial Court rightly dismissed the application refusing to entertain the petition for restoration. Even though, the suit for partition was decreed ex-parte on 03.12.2009, the proceedings have been dragged on by the petitioner by filing various applications and allowing the same to go for default.

9. In such circumstances, I do not find any error in the impugned order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

15.12.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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C.R.P.No.6355 of 2025

S.SOUNTHAR, J.

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To

The I Additional District and Sessions Judge,
Tiruppur.

C.R.P.No.6355 of 2025

15.12.2025