



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 23.10.2025

Order pronounced on : 31.10.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4657 of 2024

- 1.Sivakumar
- 2.Sivagnanam (Died)
- 3.Sivanandhan
- 4.Sivasankaran
- 5.Vadivukkarasi
- 6.Kalaiyarasi
- 7.Laila
- 8.S.Thamizhanban
- 9.Miss S.Mathivadhani

... Petitioners

[Petitioners 7 to 9 are brought on record as LR's of the deceased P2 vide order dated 27.01.2025 in CMP.No.916 of 2025 in CRP(NPD).No.4657 of 2024]

Vs.

- 1.Govindammal
- P.S.Marimuthu (Deceased)
- 2.P.S.M.Santhi
- 3.Anbazhagi (Deceased)
- 4.Azhakendran (Deceased)
- 5.Vetrichelvi (Deceased)
- 6.Karunanithi (Deceased)
- 7.Santhoshkumar (Deceased)

... Respondents

[Respondents 3 to 7 deleted as



*per joint affidavit filed by the
respondents 3 to 7 dated
21.04.2025 (recorded) vide order
dated 23.04.2025 in
CRP.No.4657 of 2024]*

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order made in I.A.No.316 of 2017 in I.A.No.391 of 2014 in O.S.No.101 of 2012 dated 15.03.2018 passed by the District Munsif Court, Thiruvarur.

For Petitioners : Mr.R.Sethuvarayar for P1, P3 to P6
Mr.S.Senthilnathan for P7 to P9

For Respondents : Mr.C.Munusamy for R1
R2 Died
RR3 to 7 Deleted

ORDER

This revision petition has been filed challenging the order in I.A.No.316 of 2017 in I.A.No.391 of 2014 in O.S.No.101 of 2012 on the file of the District Munsif Court, Thiruvarur.

2.I have heard Mr.R.Sethuvarayar, learned counsel appearing for the petitioners 1, 3 to 6, Mr.S.Senthilnathan, learned counsel appearing for the



petitioners 7 to 9 and Mr.C.Munusamy, learned counsel appearing for the 1st respondent.

3.Learned counsel for the petitioners would submit that the petitioners had filed the suit for declaration and for recovery of possession. Though the suit was dismissed for default on 05.06.2014, an application was filed in time, that is within 30 days, in I.A.No.391 of 2014 under Order IX Rule 9 of CPC to set aside the order of dismissal of the suit for default. The said I.A.No.391 of 2014 also came to be dismissed for default on 27.12.2014 and therefore, the petitioners filed I.A.No.316 of 2017 for condoning the delay of 813 days in filing the petition to restore I.A.No.391 of 2014. The said application in I.A.No.316 of 2017 was contested and the trial Court dismissed the application. Challenging the said dismissal of the condone delay application, the present revision has been filed.

4.Learned counsel for the petitioners would contend that it is the plaintiffs, who have come to Court seeking declaration to establish their rights and also for recovery of possession and in such circumstances, the Court should have liberally approached the condone delay application and



also ought to have taken note of the fact that I.A.No.391 of 2014 had been filed within 30 days from the date of the suit being dismissed for default on 05.06.2014. Learned counsel for the petitioners would also rely on the decision of the Hon'ble Supreme Court in *N.Balakrishnan Vs. M.Krishnamurthy*, reported in 1998 (7) SCC 123 to contend that in every case of delay, there will always be some lapse on the part of the litigant concerned and that alone should not be enough to turn down his plea and to shut the door against him and if the explanation does not smack of malafides or it is not put forth as part of a dilatory strategy, then the Court must show utmost consideration to the suitor.

5.Relying on the said decision, learned counsel for the petitioners would contend that there is no question of any dilatory strategy, since the petitioners are the plaintiffs, who have approached the Court and contending that the explanation offered by them is also probable and certainly not smacking of any malafides, the Court ought to have allowed the application, by condoning the delay of 816 days.



6.Per contra, learned counsel for the 1st respondent would submit that the suit filed in the year 2012 was itself seeking a declaration to annul the sale deed dated 12.06.1984 and that even after filing of the suit, the petitioners have not been diligent in following up the matter. He would take me through the dates on which the suit as well as various applications filed by the petitioners were not prosecuted by them. He would also state that even though the present revision itself was filed in the year 2018, it was returned for compliances and it took six long years for the petitioners to represent the same and number the revision in 2024 alone.

7.The learned counsel for the 1st respondent would further state that the petitioners are conveniently blaming their counsel for the delay and this Court as well as the Hon'ble Supreme Court have repeatedly come down on such tactics adopted by litigants to shift the blame on advocates, in order to escape from the clutches of the law of limitation. In support of his contentions, he would rely on the decision of the Hon'ble Supreme Court in *Rajneesh Kumar and Another Vs. Ved Prakash*, reported in 2024 Supreme (SC) 1101 and *H.Guruswamy and others Vs. A.Krishnaiah since deceased by LRs*, reported in 2025 Supreme (SC) 66.



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

9.No doubt, the petitioners had approached the Court and they are the plaintiffs in the original suit. However, merely because the plaintiffs have approached the Court and sought for various reliefs, there cannot be a blanket rule that the plaintiffs will never indulge in dilatory tactics. As already seen from the narration made, while summarizing the arguments of the learned counsel on either side, the plaintiffs having filed the suit in the year 2012, challenging the document of the year 1984, allowed the suit to be dismissed for non-prosecution on 05.06.2014. Even though an application was filed to set aside the order dismissal of the suit in time, the said IA under Order IX Rule 9 of CPC was left for dismissal on 27.12.2014. No steps were taken to restore the said IA in time and it was long after, that too, with a delay of 813 days that I.A.No.316 of 2017 came to be filed. In the said application, the petitioners have contended that in the affidavit, excepting for stating that the deponent of the affidavit was unwell and he could not attend to the proceedings, there is absolutely no explanation for



the delay of 813 days in filing the application to set aside the order of dismissal of I.A.No.391 of 2014.

10.The affidavit has been sworn to by one Mr.Sivakumar, who is the 1st petitioner/plaintiff. There is nothing to even substantiate as to why any of the other five plaintiffs were incapacitated to follow up the suit, even assuming the averment that the 1st petitioner was continuously ill throughout the period of 813 days can be admitted for the sake of discussion.

11.Further, as rightly pointed out by the learned counsel for the 1st respondent, even after suffering repeated orders of dismissal, firstly in the suit and then in the IAs, even the revision petition that has been filed in 2018 has not been diligently prosecuted and came to be represented after six years and has been numbered only in the year 2024. All these clearly exposes the callous manner in which the plaintiffs have approached the litigation, right from inception.

12.The Hon'ble Supreme Court in *N.Balakrishnan's case*, held that if the delay does not smack of any malafides or if it is not shown to be part of



any dilatory tactics adopted by the litigant, then the some lapse, if any, can be condoned. However, the case on hand, I have already found that the petitioners have not been diligent throughout the proceedings and no sufficient cause has been shown for condoning the delay of 813 days.

13.Further, the document that is under challenge is of the year 1984 and now it is more than three decades since the rights have accrued to the 1st respondent and at this juncture to unsettle the vested rights of the 1st respondent, there must be strong and acceptable cause shown by the petitioners, which is clearly absent in the present case. I do not find any infirmity in the order of the trial Court, in dismissing the application.

14.Even in *H.Guruswamy's case*, the Hon'ble Supreme Court held that the rules of limitation are not meant to destroy rights of parties and they are meant to see that the parties do not resort to dilatory tactics, but seek their remedy promptly. This ratio would squarely apply even to the plaintiffs who approaches the Court for relief.



15.Considering the facts of the present case, I do not find any infirmity in the order of the trial Court, dismissing the condone delay application. There is no merit in the revision petition.

16.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.

31.10.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The District Munsif Court, Thiruvarur.



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P.B. BALAJI,J.

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Pre-delivery order made in

CRP.No.4657 of 2024

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