



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)No.692 of 2025

and

C.M.P.(MD)No.3675 of 2025

Ramesh Babu

...Petitioner

Vs.

Andisamy (died)

1.Chittammal

2.Palanivel

3.Devaki

4.Mariyammal

5.Sokkalingam

6.Kaleeshwari

...Respondents

PRAYER: Civil Revision Petition is filed under Section 115 CPC, praying to call for the records in I.A.No.1 of 2019 in O.S.No.241 of 2014 on the file of the Sub Court, Dindigul, dated 22.11.2024 and set aside the same.



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For Petitioner

: Mr.K.P.S.Palanivel Rajan,
for K.P.S.Law Associate

For R-1 to R-6

: Mr.Sarvagan Prabhu

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 22.11.2024 made in I.A.No.1 of 2019 in O.S.No.241 of 2014 on the file of the Sub Court, Dindigul.

2. The petitioners herein filed a suit in O.S.No.241 of 2014 before the learned Sub Judge, Dindigul, against the deceased Palanisamy and the first respondent herein, seeking specific performance. The said suit was decreed ex parte on 30.03.2015. Thereafter, the petitioner filed an execution petition in E.P.No.162 of 2018 to execute the decree. Subsequently, the respondents filed an application in I.A.No.1 of 2019 to set aside the ex parte decree along with a petition to condone the delay of four years. The said application was allowed on 22.11.2024, on condition that the respondents shall pay a sum of Rs.5,000/- to the petitioner. Challenging the said order, the present Civil Revision Petition has been filed.



3. The learned senior counsel appearing for the petitioner submitted that although delay can be condoned under Section 5 of the Limitation Act on sufficient cause, the respondents are required to explain the delay by furnishing proper and convincing evidence. In the present case, it is contended that the respondents have failed to do so. The learned senior counsel placed reliance on the decisions of the Hon'ble Supreme Court in ***Oriental Aroma Chemical Industries Limited v. Gujarat Industrial Development Corporation and another***, [(2010) 5 SCC 459], and ***Pathapati Subba Reddy (died) by legal heirs and others v. Special Deputy Collector (LA)***, [2024 SCC OnLine SC 513], to support the contention that the delay must be explained with cogent reasons.

4. Per contra, the learned counsel appearing for the respondents submitted that the Hon'ble Supreme Court and this Court have consistently adopted a liberal approach in condoning the delay, especially when substantial justice is at stake. It is further submitted that the delay in filing the application was sufficiently explained with justifiable grounds, which were duly appreciated by the trial Court while allowing the application.

5. On perusal of the records, it is seen that the trial Court has considered the reasons assigned by the respondents for the delay and found them to be acceptable. The order passed by the trial Court does not suffer from any irregularity or illegality warranting interference by this Court under Article 227



of the Constitution of India. The petitioner is not left remediless, as he is at liberty to contest the suit on merits now that the ex parte decree has been set aside.

6. In view of the above, this Court finds no reason to interfere with the impugned order.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

04.07.2025

Internet: Yes/No

Index: Yes/No

TSG

To

1. The Sub Court, Dindigul.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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