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CRP No. 1810 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-04-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 1810 of 2026

and

CMP No.8193 of 2026

S Kalavathy

..Petitioner(s)

Vs

N Geethanjali

..Respondent(s)

Prayer: The Civil Revision Petition is filed under Article 115 of the Constitution of India to set aside the Order dated 16.10.2025 in IA.No.3 of 2024 in OS.No.32 of 2021 on the file of the II Additional District and Sessions Judge at Tiruppur and to allow the civil revision petition.

For Petitioner(s):

Ms.Devi N

For Respondent(s):

Mr.M.S.Karthik Raja

ORDER

This civil revision petition is filed challenging the order dated 16.10.2025 passed in I.A.No.3 of 2024 in O.S.No.32 of 2021, on the file of the II Additional District and Sessions Judge at Tiruppur, rejecting the petitioner's application filed under Section 5 of the Limitation Act to condone the delay of 162 days in filing the petition seeking to set aside the exparte decree.

2. The petitioner is the defendant in the suit. The respondent/plaintiff filed a suit for partition and in the said suit, the petitioner/defendant was set



exparte. Aggrieved by the same, the petitioner filed the aforesaid I.A.No.3 of 2024 under Section 5 of the Limitation Act to condone the delay of 162 days in filing the petition seeking to set aside the exparte decree which was passed on 24.01.2024.

3. The petitioner in her affidavit in support of the condone delay petition, stated that she was hospitalized for two weeks due to high BP and sugar and that, she was advised by her Doctor to rest for two months. She further stated that settlement talks were undertaken by her mother and well wishers. Under the circumstances, she did not take any steps in the suit. While so, she received a notice in I.A.No.2/2024 and on enquiry, she was informed that an exparte decree was passed against her on 24.01.2024. Thereafter, she took steps to restore the suit by filing aforesaid IA. The respondent/plaintiff, in her counter statement, apart from generally denying all the averments in the affidavit, specifically denied that the petitioner was hospitalised for high BP and sugar during the relevant period.

4. The trial Court, on consideration of the entire materials on record, dismissed the I.A. on the ground that the petitioner failed to produce medical records to substantiate her contention that she was hospitalised during the relevant period. Further, the trial Court disbelieved the petitioner's version that her mother advised her to amicably settle the issue with her sister.

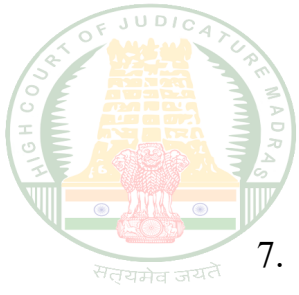


Aggrieved by the said dismissal, the petitioner/defendant filed the present civil revision petition.

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5. The petitioner is a senior citizen, aged about 63 years. To give an opportunity to the petitioner, she was given time to produce her medical records. The petitioner filed a typed set of papers enclosing the medical records. One of the documents filed by the petitioner is a medical certificate issued by her doctor, certifying that she was suffering from Acute Pulmonary Edema, Bilateral Moderate Pleural Effusion(R>L), Brohchopneumonia, Heart Failure with preserved Ejection Fraction, Type II Diabetes Mellitus, and that she was under treatment from 2022. In view of the medical records filed by the petitioner in her additional typed set, this Court finds that the medical reasons stated by the petitioner in support of the condone delay petition are *bona fide*. Therefore, this Court is inclined to interfere with the order passed by the trial Court.

6. Accordingly, the order dated 16.10.2025 passed in I.A.No.3 of 2024 in O.S.No.32 of 2021, on the file of the II Additional District and Sessions Judge at Tiruppur is set aside and this Civil Revision Petition is allowed, subject to payment of cost of Rs.5,000/- (Rupees Five Thousand Only) by the petitioner to the learned Counsel for the respondent, within a period of one week from today.



7. Post the matter for reporting compliance on 20.04.2026.

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10-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

veda / AP

To

The II Additional District and Sessions Judge at Tiruppur.



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N.MALA, J.

veda / AP

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