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CRP No. 239 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 239 of 2019

Selvam

..Petitioner(s)

Vs

- 1.Periya Pappal (Died)
- 2.Arumugam
- 3.Chinnasamy
- 4.Muthalammal
- 5.Rajendran
- 6.Chinnadurai
- 7.Muthu
- 8.Muniyammal
- 9.Mani @ Malar
- 10.Lakshmi
- 11.Periyasamy
- 12.Anjalai
- 13.Ramachandran
- 14.Manivel
- 15.Pachiammal
- 16.Ammasi (Died)
- 17.P.Gopal
- 18.P.Govindan
- 19.K.Devaki

(R1-Died, Respondents 16 to 19 are brought on record as Lrs of the deceased R1 viz., Periya Pappal vide Court order dated 19.07.2024 made in CMP.No.8210 of 2019 and 9280 of 2022 in CRP.No.239/2019)

20. Pichayee
- 21.Kannagi
- 22.Sankar

(R20 to R22 are brought on record as Lrs of the deceased R-16 viz., Ammasi vide Court order



dated 19.07.2024 made in CMP.No.8210 of 2019
and 9280 of 2022 in CRP.No.239 of 2019)

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..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 23.10.2018 made in I.A.No.964 of 2017 in O.S.No.57 of 2002 on the file of the learned First Additional District Munsif Court, Kallakurichi.

For Petitioner(s): Mr.N.Manokaran

For Respondent(s): For R3 - Ms.P.Veena Suresh

For R12 to R14 – Mr.P.Sesubalan Raja

For RR1, R2, R4, R5 and R16 – Died

No appearance for RR6 to R11, R15, R17 to R22.

ORDER

The Civil Revision Petition has been filed to set aside the fair and decreetal order dated 23.10.2018 made in I.A.No.964 of 2017 in O.S.No.57 of 2002 on the file of the learned First Additional District Munsif Court, Kallakurichi.

2. Heard Mr.N.Manokaran, learned counsel for the petitioner and Ms.P.Veena Suresh, learned counsel for the 3rd respondent and Mr.P.Sesubalan Raja, learned counsel for respondents 12 to 14.



3. The learned counsel for the petitioner would submit that the petitioner had filed a suit seeking to set aside a decree made in O.S.No.283 of 1989, in which a final decree came to be passed in the year 1999 and declared the title of the plaintiff and defendants 4 to 10 in respect of the 'B' scheduled property. He would submit that the suit schedule properties 1 to 3 originally belonged to one Lakshmi and properties 4 and 5 belonged to her husband.

4. He would submit that the parties to the suit, who are all relatives, suppressing a family arrangement, had filed the earlier suit at a time when the petitioner was a minor and a decree of partition came to be passed. He would submit that the guardian, who had represented him had not placed the proper facts before the Court and therefore he had lost his right in the 'B' schedule property. On learning about the same, on attaining the age of majority, he had filed the suit well within the period of limitation. However, the said suit came to be dismissed for default on 10.07.2014.

5. The learned counsel for the petitioner would further submit that the petitioner, who was a resident of India, due to avocation had left India in the year 2010. As the suit was posted for trial on 10.07.2014 and for his non-appearance, the suit came to be dismissed for default. Immediately on knowing of the said fact, he had executed a Power of Attorney on 19.07.2014 in favour of his uncle, who had also filed an application in I.A.No.450 of 2015 seeking to



represent the petitioner as Power Agent and another application in I.A.No.770 of 2015 for setting aside the *ex parte* order.

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6. As it was brought to the notice of the Court that the Power of Attorney executed was not registered and the Power Agent was called upon to not press the interlocutory applications, he has not pressed the said interlocutory applications and the same were dismissed on 15.10.2015. On returning to India and having verified with the status of the case, the petitioner had taken out an application seeking to set aside the *ex parte* order. As the same was beyond the period of limitation, he had also taken out an application to condone the delay in filing the application to restore the suit.

7. He would submit that the Court below had wholly erred in dismissing the application to condone the delay without considering the hardship and the reasons attributed by the petitioner. He would submit that the petitioner has lost his valuable right in the suit property and, therefore, to protect his right, he seeks the indulgence of this Court.

8. Relying upon the judgment of the Hon'ble Apex Court reported in *N.Balakrishnan Vs. M.Krishnamurthy* reported in (1998) 7 SCC 123, the learned counsel for the petitioner would submit that the length of delay is not the criteria and that only the reasons attributed are to be considered. He would



submit that sufficient cause has been shown by the petitioner. The Court below has erroneously dismissed the applications by only considering the length of time. Hence, he would seek the indulgence of this Court.

9. Countering his arguments, learned counsel appearing for the respective respondents, on the other hand, would contend that the petitioner has not given any reasons whatsoever for the inordinate delay and has not explained the delay for each and every day, as required. He would submit that the suit filed by the petitioner was dismissed as early as in July 2014 and even if taking into consideration the application filed by the alleged Power of Attorney, which was not pressed by the said Power of Attorney, no reasons have been attributed by the petitioner as to why, after non-pressing of the same, the petitioner had waited for two years to file the present application. They would further submit that the petitioner, having filed an earlier application through his Power of Attorney which was not pressed, is estopped from filing the present application. Therefore, the order of rejection passed by the Court below need not be interfered with. Hence, prays for dismissal of the revision.

10. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.



11. Admittedly, the suit filed by the petitioner came to be dismissed by the trial court on 10.07.2014. It is his case that in the year 2010, he had left India and had come back only in January 2017. He had also made a statement that he had executed a Power of Attorney who had earlier taken out an application but did not press the same. Such Power of Attorney executed was not accepted by the Court as it had not been executed in the manner known to law. The petitioner has not claimed ignorance of such withdrawal of the petition filed by his Power of Attorney but had filed his application only in the month of February 2017, seeking for restoration of the suit along with condonation of delay.

12. The petitioner has also not made any averments as to why he had not taken appropriate steps, when the suit filed by him was pending and when he left India, by appointing a proper Power of Attorney. From the averments made by the petitioner in his affidavit filed in support of the petition to condone the delay in filing the restoration application, it could be noted that the suit came to be dismissed on 10.07.2014 and, even according to him, he had executed the alleged Power of Attorney on 19.07.2014. This would mean that the petitioner was aware of the proceedings before the trial court, as the time gap between the dismissal of the suit and execution of the alleged Power of Attorney is only nine days.



13. As noted above, the petitioner also has not given any reasons whatsoever as to why he had not taken any steps even after the withdrawal of the petition filed by his alleged power agent till the actual date of filing of the present petitions. The petitioner has not shown any sufficient cause, much less a cause for this Court to appreciate his claim to condone the delay. The judgment relied upon by the petitioner cannot also be applied to the facts of the present case, as in the said judgment, the Hon'ble Apex Court had categorically found that sufficient cause had been explained by the litigant, who sought condonation of delay.

14. For the aforesaid reasons, I do not find any merits in the revision, warranting interference by this Court and accordingly, the Civil Revision Petition stands dismissed. No costs.

05-03-2026

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

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K.KUMARESH BABU, J.

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