



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 19.01.2026

Order pronounced on : 30.01.2026

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3151 of 2025

& CMP.No.17544 of 2025

Natarajan (Died)

1.Muthu

2.Nagan

... Petitioners

Vs.

S.Murugan

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decretal order dated 25.08.2021 made in I.A.No.35 of 2018 in O.S.No.84 of 2007 on the file of the District Munsif Court, Uthukottai.

For Petitioners : Mr.B.Manoharan

For Respondent : Mr.D.Magesh



ORDER

WEB COPY

The revision petitioners challenge the dismissal of an application under Section 5 of the Limitation Act, seeking to condone the delay of 2546 days in filing the application to restore the petition to set aside the ex-parte decree passed in O.S.No.84 of 2007.

2.I have heard Mr.B.Manoharan, learned counsel for the revision petitioners and Mr.D.Magesh, learned counsel for the respondent.

3.Mr.B.Manoharan, learned counsel appearing for the revision petitioner would state that the suit was initially filed by the respondent before the District Munsif Court, Thiruvallur and thereafter, after the petitioners entered appearance through counsel, the suit was transferred to the District Munsif Court, Uthukottai. According to the learned counsel for the petitioners, the petitioners were unaware of the said transfer and only when they received notice in the execution proceedings, they approached the counsel and immediately took out an application to set aside the ex-parte decree by filing I.A.No.35 of 2018. He would therefore state that the petitioners should be given a fair opportunity to contest the suit, which has been filed for declaration of title and for recovery of possession, besides the



relief of mandatory injunction as well.

WEB COPY

4.The learned counsel for the petitioners would also rely on the printout from e-court website to indicate that the petitioners were aware of the execution proceedings only in the end of 2018/early 2019. He would also state that the property has been assigned by the Tahsildar, Uthukottai, in favour of the mother of the petitioners, Saroja, who is admittedly not a party to the suit. He would invite my attention to Patta No.404 which a natham patta in respect of S.No.1631/26 which stands mutated in the name of Saroja w/o Natarajan, who is admittedly the mother of the revision petitioners. He would therefore state that the said Saroja not being a party to the suit, her rights should not be prejudiced in any manner and he would seek for suitable directions in this regard in the event of this Court ultimately confirming the order of the trial Court, dismissing the Section 5 application.

5.Per contra, Mr.D.Magesh, learned counsel appearing for the respondent would state that there is absolutely no error or infirmity in the order passed by the trial Court. He would also state that it is not correct to state that the patta is standing in the name of the mother of the petitioners,



Saroja and in this regard, he relies on the patta issued by the Special Tahsildar, Uthukottai, which is mutated in the name of the respondent and having been issued even as early as in July 1992.

6.As regards the averments made by the petitioners that they came to know about the ex-parte decree only after receiving notice in the execution petition, the learned counsel for the respondent would produce the certified copy of the A Diary extract in E.P.No.7 of 2014 which reflects the fact that an advocate has appeared on behalf of the judgment debtors 1 to 3 on 03.06.2014. It is therefore the submission of the learned counsel for the respondent that despite having received notice in the execution petition and entered appearance on 03.06.2014, for more than three years, the petitioners did not take any steps and to even any attempt to set aside the ex-parte decree and further, even the application filed was dismissed and there has been further delay of 2546 days which has not been explained with any valid reasons whatsoever. He would therefore pray for dismissal of the revision petition.

7.I have carefully considered the submissions advanced by the learned counsel for the parties.



WEB COPY

8. Though the suit has been filed by the respondent for declaration and further reliefs, admittedly, even according to the petitioners, they had entered appearance in the suit at the first instance. However, thereafter, when the suit was transferred to the file of the District Munsif Court, Uthukottai, they did not appear and contest the suit, which resulted in an ex-parte decree being passed.

9. It is the case of the petitioners that upon receiving notice in the execution petition, immediately they have contacted their counsel and taken steps to file an application to set aside the ex-parte decree. However, it is seen from the certified copy of the A Diary extract produced by the respondent that in the execution petition, the petitioners have entered appearance even on 03.06.2014. Admittedly, the application has not been filed within a period of 30 days from the date of receipt of notice in the execution petition. After sleeping over the matter for nearly four years, the application in I.A.No.35 of 2018 was filed only in 2018. The delay, despite having notice of the ex-parte decree, has not been satisfactorily explained. The reasons given in the affidavit in support of the condone delay application have also not been substantiated by adducing any oral evidence



or by providing satisfactory documentary evidence. In such circumstances, the trial Court has rightly dismissed the application for condonation of delay. I do not see any grounds made out for interfering with the well reasoned order of the trial Court.

10.However, insofar as the claim that the patta has been mutated in the name of the mother of the petitioners, namely Saroja on 21.07.2025, admittedly, the said Saroja is not a party to the suit or the present revision petition. Therefore, it is always open to the said Saroja to initiate necessary legal action at her end, if so advised to protect her rights in and over the subject property. However, this cannot be a reason to entertain the request of the revision petitioners to condone the inordinate delay and to set aside the ex-parte decree that they have suffered. For all the foregoing reasons, there is no merit in the revision petition.

11.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

30.01.2026

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



ata

WEB COPY

To
The District Munsif Court, Uthukottai.

P.B. BALAJI,J.

ata



WEB COPY



Pre-delivery order made in
CRP.No.3151 of 2025
& CMP.No.17544 of 2025

30.01.2026