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CRP No. 1115 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 1115 of 2026

1. S.Devi
D/o. Late. N. Subramani
Nallamuthampalayam
Ingur Village and Post
Perundurai Taluk
Erode Dist.
2. S.Mohanasundaram
D/o. Late. N. Subramani
Nallamuthampalayam
Ingur Village and Post
Perundurai Taluk
Erode Dist.

..Petitioner(s)

Vs

1. Valliammal
W/o. Late. N.Subramani
Nallamuthampalayam
Ingur Village and Post
Perundurai Taluk
Erode Dist.
2. Thangamuthu
S/o. Chinnappa Gounder
Saravanampatti
Ingur Village and Post
Perundurai Taluk
Erode Dist.
3. N.Karuppusamy
S/o. Late. Nachimuthu Gounder
Nallamuthampalayam
Ingur Village and Post
Perundurai Taluk
Erode Dist.
N.Nallasamy (Died)



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..Respondent(s)

CRP No. 1115 of 2026

To set aside the Fair and Final order passed in I.A. No. 3 of 2023 in OS No. 165 of 2011 on the file of Subordinate Court, Perundurai, dt 15.07.2025.

CRP No. 1115 of 2026

For Petitioner(s): A.Sundara Vadhanan
Logesh S

For Respondent(s): Erode

ORDER

- (1) The Civil Revision Petition is filed challenging the order dismissing the petitioners' application to condone the delay of 2757 days in restoring the suit.
- (2) The petitioners are the plaintiffs in the suit. The plaintiffs filed the suit for partition of their 8/27th share in the suit property, in the year 2011. The defendants filed their written statement and thereafter, the case was posted for cross examination of PW1 on 18.02.2014. Since the petitioners were absent, the suit was dismissed for non prosecution. The petitioners therefore filed a restoration application along with a petition to condone the delay of 2757 days in filing the restoration petition. The same was dismissed by the Trial Court. Aggrieved by the same, the petitioners have filed the present petition for the aforesaid relief.



(3) Heard the learned counsel for the petitioners and perused the materials placed on record.

(4) The Trial Court, noted from the Note Sheet that the petitioners were afforded sufficient opportunity for nearly ten months to subject themselves to cross examination, yet failed to do so, resulting in the dismissal of the suit for non prosecution on 18.02.2014. The Trial Court also found that the reasons assigned by the petitioners for their absence were vague and unsubstantiated and therefore, declined to condone the delay of 2757 days in seeking for restoration of the suit.

(5) This Court has perused the records. As rightly pointed out by the Trial Court, the petitioners have not offered any explanation whatsoever for the period between 18.02.2014 and March, 2020. The solitary plea of the petitioners of being laid up with viral fever during first week of march, 2020, is wholly insufficient to explain the prolonged inaction. The affidavit filed in support of the petition does not disclose any substantial cause for condoning the inordinate delay of 2757 days in seeking to restore the suit dismissed for default. The materials on record clearly establish the total absence of due diligence and *bona fides* on the part of the petitioners. Hence, this Court finds that no sufficient cause is made out for condoning the inordinate delay of 2757 days in seeking to restore the suit which was dismissed for default.

(6) The learned counsel for the petitioners submitted that in the interest of



justice, a liberal approach should be adopted and that the CRP could be allowed on such terms as deemed appropriate by this Court. This Court is not inclined to adopt any liberal approach or justice oriented approach, since, this Court finds that the averment in the affidavit reflect total lack of bona fides and diligence in prosecuting the case.

- (7) Useful reference in this regard can be made to the judgment of the Hon'ble Supreme Court in the case of ***Basawaraj and Another Vs. Special Land Acquisition Officer*** reported in **2013 [14] SCC 81.** In paragraph 15, it was held as follows:-

‘‘15.....No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay...’’

- (8) The Hon'ble Supreme Court has time and again stressed that the concept of liberal approach should not be employed to jettison the substantial law of limitation. At this juncture, it would be appropriate to refer to the judgment of the Hon'ble Supreme Court in **2025 SCC OnLine SC 54 [H.Guruswamy and Others Vs. A.Krishnaiah since deceased by LRs]**, in paragraphs No.13 and 14, it was held as follows:-

‘‘13.We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District Judiciary as well the High Courts that the concepts such as ‘‘liberal approach’’, ‘‘Justice Oriented approach’’, ‘‘substantial justice’’, should not be employed to frustrate or jettison the substantial law of limitation.



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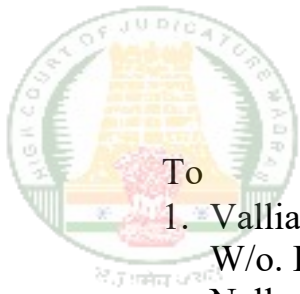
14. We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a Judge is expected to maintain while adjudicating a lis between the parties.’’

- (9) In view of the above discussions, this Court finds no merit in the Civil Revision Petition and the same is **dismissed**. No costs.

03-03-2026

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

AP



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N.MALA J.

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