



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No.3342 of 2019
and
C.M.P.No.21723 of 2019

1.Malliga
2.V.Sekar

...Petitioners

Vs

G.Radhakrishnan

...Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC., to set aside the fair and decretal orders of the learned District Munsif-cum-Judicial Magistrate of Pochampalli dated 31.01.2019 in I.A.No.159 of 2017 in O.S.No.7 of 2015 and allow the above CRP.

For Petitioners: M/s.V.Nicholas

For Respondent: Mr.P.M.Jayachandran

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order of the learned District Munsif-cum-Judicial Magistrate of Pochampalli dated 31.01.2019 in I.A.No.159 of 2017 in O.S.No.7 of 2015.



2. The learned counsel for the petitioners would submit that the respondent herein had filed a suit for recovery of possession and also for recovery of arrears of rent, in which, an exparte decree was passed by the Court on 25.11.2015. On receipt of summons, explaining the fact that another suit regarding the very same properties was pending before the Sub Court, Uthangarai, that no information had been received by the Counsel engaged by the petitioners for more than a year to take necessary steps on behalf of the petitioners and that the petitioners were also unable to contact the Advocate as the first petitioner was taking treatment outside the State and only on receipt of the summons in the execution petition, the petitioners had knowledge of the exparte decree, immediately, the petitioners had filed an application to set aside the exparte decree and in that process there had occasioned the delay of 441 days and hence, an application to condone the delay had also been filed by the petitioners. However, the Court below, without considering the reasons that have been attributed by the petitioners, in a casual manner, had held that the petitioners had not substantiated the reasons for the delay and had dismissed the application. Though the delay had been properly explained by making an averment that the first petitioner had been taking treatment outside the State for the petitioners to immediately take necessary application for condoning the delay, the Court below had not considered the same in proper prospective and dismissed the petition. Hence, the learned counsel seeks indulgence of this Court.



3. Countering the arguments Mr.P.M.Jayachandran, learned counsel for the respondent would submit that the petitioners had not denied the receipt of summons in the suit. Eventhough, the first petitioner had pleaded that she had been taking treatment out side the State, no reasons had been stated as to why the second petitioner had not taken steps to defend the suit. That apart he would submit that the affidavit is also bereft of material facts indicating the Advocates who were engaged by the petitioners to defend them. The averments in the affidavit are bereft of any material facts for appreciating the delay and hence, there is no necessity to interfere with the order impugned in the revision and prays this Court dismiss the Civil Revision Petition.

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

5. A perusal of the affidavit filed in support of the application to condone the delay would indicate that the petitioners have admitted receipt of summons in the suit. Eventhough the petitioners have pleaded that they had engaged an Advocate to take care of the proceedings no details of the Advocate who they had engaged had been given and no reasons had been attributed as to why, no steps have been taken to enter appearance and file a written statement in the suit. Eventhough, the petitioners have claimed that in respect of the suit



properties, another suit in Uthangarai, Sub Court had been filed, no details of such suit have been given by the petitioners. No supporting affidavit of the Advocate who was engaged by them had been produced on record to appreciate the reasons for the delay. The petitioners eventhough had stated that the first petitioner had been taking treatment outside the State, no details of ailments or the treatment taken by the first petitioner or the hospital where the treatment was taken has been stated in the said application.

6. In such circumstances, it is only to be concluded that the affidavit does not disclose any valid reasons whatsoever to condone the delay. It had been time and again held that the delay in approaching the Court should be cogently and bonafidely explained for the Court to appreciate the delay. No such reasons have been given and therefore, this Court need not grant indulgence to condone the delay.

7. For the aforesaid reasons, this Court does not find any merit in the Revision and accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.04.2026

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



To
WEB COPY

- 1.The Sub Court, Uthangarai.
- 2.The District Munsif-cum- Judicial Magistrate,
Pochampalli.



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K.KUMARESH BABU, J.

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