



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 16.02.2026

Judgment pronounced on : 27.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.693 of 2026
& CMP.No.3668 of 2026

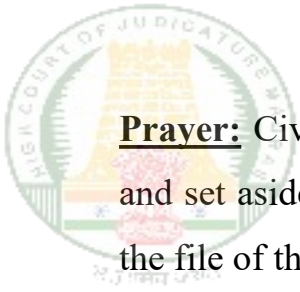
1.Prakashchand Bokaria
2.Pradeep Kumar Bokaria
3.Praveen Kumar Bokaria
4.Prasant Bokaria
5.Indu Bokaria
6.Varsha Jain
7.Vimki Giria

.. Petitioners

Vs.

1.R.V.S.Prasad
2.R.V.Sathyavani
3.K.V.Swarna
4.C.Padmasri
5.R.V.Lakshmanaperumal
6.R.V.Venkataramaiah
7.R.V.Gopalakrishnan
8.R.V.Srinivasan
9.Nirmala Singhee
10.Pramila Giria
11.Vineet Kumar Bokaria

.. Respondents



Prayer: Civil Revision Petition filed under Section 115 of CPC, to call for the record and set aside the order dated 08.01.2025 in I.A.No.1 of 2023 in A.S.No.354 of 2012 on the file of the XVI Additional City Civil Court, Chennai.

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For Petitioners : Mr.G.Vivekanand

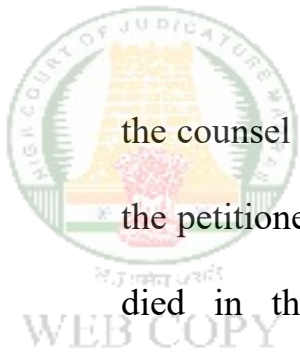
For Respondents : Mr.V.G.Sureshkumar for R1
Mr.N.Nagu Sah for RR3 & 4

ORDER

The petitioners are appellants in A.S.No.354 of 2012. Aggrieved by the order in I.A.No.1 of 2023 passed by the First Appellate Court, the petitioners are before this Court, with the present revision petition.

2.I have heard Mr.G.Vivekanand, learned counsel for the revision petitioners and Mr.V.G.Sureshkumar, learned counsel for the 1st respondent and Mr.N.Nagu Sah, learned counsel for the respondents 3 and 4.

3.Mr.G.Vivekanand, learned counsel appearing for the revision petitioners, at the outset, would state that the petitioners filed an application in I.A.No.1 of 2023 under Section 5 of the Limitation Act, to condone a delay of 1904 days in representing CMP.SR.No.40297 of 2015 in A.S.No.354 of 2012. He would therefore state that the suit being one for partition, the petitioners should be given a fair opportunity to put forth all their defence and contentions and the appeal was dismissed for non prosecution since



the counsel had not followed up the matter diligently and had not chosen to even inform the petitioners. He would further state that the counsel, who was on record in the appeal died in the month of August 2022 and hence, return of the application in CMP.SR.No.40297 of 2015 could not be taken and represented in time. Further delay occasioned on account of the demise of the 1st appellant on 09.09.2018 and the legal representatives of the 1st appellant had to be brought on record.

4.The learned counsel for the petitioners would further contend that though the petitioners informed the earlier counsel about the death of the 1st appellant, the counsel failed to take steps and there was a delay of 1447 days in filing the application to bring on record the deceased 1st appellant in the appeal. He would therefore state that a fair opportunity may be given to the petitioners to prosecute the appeal on merits, as their valuable rights in the immovable property are involved in the appeal suit.

5.Per contra, Mr.V.G.Sureshkumar, learned counsel appearing for the 1st respondent would submit that the petitioners are purchasers, pending the suit for partition and they were also arrayed as defendants in the suit. A preliminary decree was passed only in their presence. Final decree application was also taken out subsequently and when the proceedings were nearing completion, the petitioners filed an appeal against the preliminary decree in the year 2012. The said appeal was not followed up diligently, which resulted in the appeal being dismissed for non prosecution. Though the



petitioners claim to have filed the application even in 2015, they have not chosen to follow up the same for close to 10 years and the delay in representing the application is clearly malafide and only with a view to protract the proceedings and delay and finality in the final decree proceedings.

6.Mr.N.Nagu Sah, learned counsel appearing for the respondents 3 and 4, apart from adopting the submissions of the Mr.V.G.Sureshkumar, would state that the suit for partition was filed in the year 1978 and for the past several decades, the plaintiffs are forced to wait on account of repeated delay tactics. He would further state that even the final decree application is pending from 2017 onwards and a Commissioner has already been appointed and he has also filed a report, along with a Civil Engineer's report as early as in 2021. The learned counsel for the respondents 3 and 4 would submit that the petitioners were fully aware of all these proceedings and having slept over the matter for years together, cannot now wake up and contend that they should be given an opportunity to represent the application to restore the appeal to file.

7.I have carefully considered the submissions advanced by the learned counsel for the parties. I have also gone through the records, including the order impugned in the revisions.



8. Firstly, as contended by the learned counsel for the respondents, the petitioners are admittedly *pendente lite* purchasers and they cannot have any independent right. At best, they step into shoes of their vendors and they will be entitled to the share, which their vendors are declared to be entitled to and nothing more. Further, the petitioners were admittedly arrayed as defendants even before the trial Court and the preliminary decree was passed in their presence. They have also rightly challenged the same by preferring an appeal. However, the appeal has been dismissed for non prosecution even in 2014. Subsequently, final decree application has been taken out and the same has been pending from 2017 onwards. Therefore, it is not fair and proper on the part of the petitioners to blame their erstwhile counsel, that too, behind the counsel's back and seek for condonation of close to 2000 days.

9. The reasons assigned by the petitioners are clearly unacceptable and do not appeal to the conscience of the Court. The death of the erstwhile counsel, against whom allegations are made was only in 2022 and the total inaction and silence, even prior to 2022 is not satisfactorily explained.

10. This Court has already come down heavily on the practice of litigants blaming their erstwhile counsel, an attempt to explain long and inordinate delays. The Hon'ble Supreme Court has also held that a party has to be diligent and has to follow up his case and cannot blame the counsel for the default. In the light of the above, I do not see



any reasons to interfere with the order of the First Appellate Court, dismissing the
condone delay application.

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

27.02.2026

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



The XVI Additional City Civil Court, Chennai.

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P.B.BALAJI.J.



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Pre-delivery order made in
CRP.No.693 of 2026
& CMP.No.3668 of 2026

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