



WEB COPY



CRP No. 2644 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2026

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 2644 of 2026
and CMP No.11262 of 2026**

1. Chinnasamy
S/o Chellamuthu, 124, Chettipalayam,
Nelali Village, Kangayam Taluk, Tiruppur
District

Petitioner(s)

Vs

1. Kalavathy
W/o Selvakumar, 340/1 Ram Nagar,
K.Chettipalayam, Kaspas Tiruppur Town,
Tiruppur District

Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.3 of 2025 in O.S.No.16 of 2024 on the file of Sub Court, Kangayam, Tiruppur District dated 26.02.2026.

For Petitioner(s): V.Regunathan

ORDER

Challenging the order passed in I.A.No.3 of 2025 in O.S.No.16 of 2024, the second defendant has preferred the above revision.



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2. Before the trial court, the second defendant has filed an application in I.A.No.3 of 2025 seeking to condone the delay of 196 days in filing the petition to set aside the exparte decree and the same was dismissed by the trial court. Aggrieved by the same, the second defendant has filed the present revision.

3. Learned counsel for the revision petitioner submits that the respondent/plaintiff filed a suit for partition and the case was posted on 01.03.2024. but due to illness he could not appear and give instructions to the counsel. Therefore, he was set exparte. The other two defendants are sailing with the plaintiff and based on that, preliminary decree was passed and now, the plaintiff is taking steps to execute the final decree proceedings in I.A.No.2 of 2025 and only thereafter, the revision petitioner came to know about the exparte decree and therefore has come forward with the application to set aside the exparte decree, but there is a delay of 196 days. Hence, he filed an application to condone the delay. But the Court dismissed the said application holding that the reason for the delay has not been properly explained and there is no medical proof for the illness . Aggrieved by the same, the present revision has been filed.

4. Considering the fact that the petitioner and the respondent are brother and sister and the respondent/plaintiff filed a suit for partition, in which, the revision



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petitioner is shown as second defendant and the other defendants are sailing with the plaintiff and they have not contested the case and due to lack of communication, the revision petitioner could not appear before this Court, but he is ready to contest the case. Having come to know about the exparte order, the revision petitioner filed an application to set aside the exparte order, however, there is a delay of 196 days. The revision petitioner states that he was suffering from jaundice which requires contemporaneous treatment and for that valuable medical proof is not required for Ayurvedic treatment.

5. In a case of partition, all the parties are to be given fair opportunity, but the trial court has not given such opportunity, but erroneously dismissed the application. The other defendants are sailing with the plaintiff. If opportunity has not been given to the party, who is contesting the case, it would lead to multiplicity of proceedings.

6. In the light of the above, the order passed in I.A No.3 of 2025 is set aside and I.A.No.3 of 2025 is allowed and the delay is condoned. Written statement has already been filed. The trial court is directed to frame issues by giving opportunity to both the parties and dispose of the suit in O.S.No.16 of 2024 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.



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With the above direction, the civil revision petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

29.04.2026

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Index:yes.no

Website:yes/no

Speaking Order/Non-speaking Order

To

The Subordinate Court, Kangayam, Tiruppur District

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