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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 5971 of 2026

CNR: {HCMA011051852022}

Manikandan
S/o. Samidurai,
Rep. by her Power Agent
Selvambal,
W/o. Thangavel,
Veerugavur Village, Kallakurichi Taluk,
Kallakurichi District.

..Petitioner(s)

Vs

1. Samidurai,
   S/o. Krishnasamy Udayar

2. Mahendran,
   S/o. Samidurai

3. Arumugam,
   S/o. Pachamuthu Udayar
   All are residing at
   Veerugavur Village,
   Kallakurichi Taluk,
   Kallakurichi District.

..Respondent(s)

To set aside the Fair and Decreetal Order dated 04-10-2021 made in I.A.No.4/2021 in Un-numbered AS passed by the Principal Sub-ordinate Judge, Kallakurichi and allow the above Civil Revision Petition.

For Petitioner(s): Ms. R. Divyapreathika
For Respondent(s): No Appearance for R1 and R2
Mr. R. Kumaravel for R3

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ORDER

The Civil Revision Petition has been filed challenging the order passed by the First Appellate Court, dismissing the application filed by the petitioner seeking to condone to delay of nine days in filing the appeal.

2. The petitioner herein filed a suit for partition against the respondents, who are his father, brother and purchaser of the suit property. The said suit was dismissed on merits on 19.11.2019. Aggrieved by the same, the petitioner filed an appeal before the First Appellate Court with a delay of nine days. The petition filed by the petitioner to condone the delay was dismissed by the First Appellate Court. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner would submit that the petitioner filed a suit for partition and having regard to the substantial rights of the parties involved in the suit, the First Appellate Court should have exercised its discretion in favour of the petitioner and condoned the delay of nine days in filing the appeal.

4. The learned counsel appearing for the third respondent would submit that the petitioner has not given any reason in the affidavit for condoning the

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delay. It is further submitted that it is the duty of the petitioner to explain each and every day delay and therefore, the First Appellate Court was justified in dismissing the condone delay application. In support of his arguments, he relied on the judgment of this Court in ***D.V.Venkatesan and Others v N.R.Subramanian*** reported in ***2025 Supreme (Mad) 4352***.

5. It is seen from the typed set of papers that the petitioner filed a suit for partition, claiming his 1/3rd share in the suit properties. The respondents 1 and 2 are none other than the father and brother of the petitioner.

6. Having regard to the relationship between the parties and also the substantial rights involved in the partition suit, this Court is inclined to take a liberal view of the matter, especially when the delay is only nine days. In the affidavit filed in support of the condone delay petition, it is stated by the petitioner that if the delay is not condoned, the same will cause irreparable injury to him.

7. Since the parties are relatives and the relief sought for is partition, an opportunity shall be given to the petitioner to prosecute the appeal on merits. Further, the substantive rights of the parties shall not be defeated on hyper technical grounds, especially when the delay is only nine days.

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8. Taking into consideration of the facts and circumstances of the case, the Civil Revision Petition is allowed, subjected to the condition that the petitioner shall pay a sum of Rs.5,000/- to the Chief Justice Relief Fund within a period of two weeks from the date of receipt of a copy of this order, failing which, the Civil Revision Petition shall stand automatically dismissed without further reference to the Court. On compliance, the Court below is directed to number the unnumbered appeal and dispose of the same in accordance with law.

10-11-2026

Neutral Citation: Yes/No
AT

To
1.The Principal Sub-ordinate Judge, Kallakurichi.

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S.SOUNTHAR, J.

AT

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