



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 13.03.2026

ORDER PRONOUNCED ON : 01.06.2026

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THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 1098 of 2026

AND

CMP NO. 5741 OF 2026

Kumaran,
S/o.Munusami Naicker,
Kuppusami Naicker,
Ocheri Village and Post,
Nemili Taluk,
Ranipet District.

..Petitioner(s)

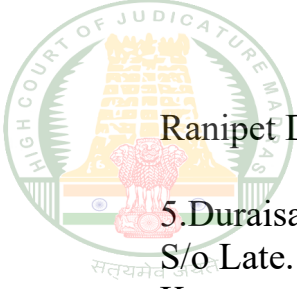
Vs

1.Jagannathan (Died), 1. Sulochana
W/o Late. Jagannathan,
Kuppusami Naicker Street,
Ocheri Village and Post,
Nemili Taluk, Ranipet District.

2.Loganathan
S/o. Late. Jagannathan
No. 109/1, Bajanai Kovil Street
Krishnapuram, Karikkal Post
Sholinghur Taluk
Ranipet District.

3.Sasikala
D/o. Late. Jagannathan
No. 23, 2nd Thandapani Kovil Street,
Buvaneshwaripettai,
Gudiyatham Taluk
Vellore District.

4.Meganathan
S/o Late. Jagannathan
Kuppusami Naicker
Ocheri Village and Post
Nemili Taluk,



Ranipet District.

5.Duraisamy

S/o Late. Jagannathan

Kuppusami Naicker

Ocheri Village and Post

Nemili Taluk,

Ranipet District.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, pleaded to set aside the fair and decretal order dated 16.12.2024 made in I.A.No.2 of 2024 in O.S.No.129 of 2016 on the file of the Ld. District Munsif Court, Sholinghur, by allowing this Civil Revision Petition and thus render justice.

For Petitioner(s):

Mr. C. Harish

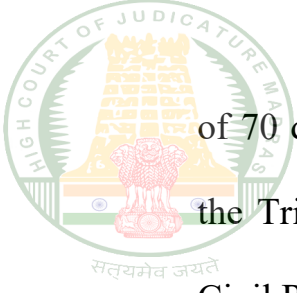
For Respondent(s):

Mr.M.Venkadesh Kumar

ORDER

(1)The Civil Revision Petition is filed challenging the order dated 16.12.2024, in IA.No.2/2024 in OS.No.129/2016, on the file of the learned District Munsif, Sholingur, dismissing the petitioner's application to condone the delay of 70 days in filing the petition seeking to set aside the exparte order passed in the aforesaid suit.

(2)The petitioner is the defendant in the suit. The respondents filed the suit for declaration of title, mandatory injunction and for permanent injunction. The petitioner filed the written statement in the suit and thereafter, remained absent. Therefore, on 10.06.2024, an exparte decree was passed against the petitioner. The petitioner thereafter filed IA.No.2/2024, to condone the delay



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of 70 days, in filing the petition seeking to set aside the exparte decree. As the Trial Court dismissed the application, the petitioner has filed the above Civil Revision Petition.

(3)The petitioner, in his affidavit filed in support of the petition to condone the delay, submitted that due to ill-health, he was not able to contact his counsel on the day when the exparte decree was passed. The petitioner further submitted that due to the death of the first plaintiff, and in view of the amended plaint, the delay in filing the Section 5 application occurred. The petitioner, therefore submitted that the delay was neither wilful nor wanton, but due to the aforesaid circumstances and hence, prayed that the petition be allowed.

(4)The 6th respondent filed a counter, denying all the averments made in the petition. The 6th respondent denied that due to ill-health, the petitioner was not able to attend the hearing on 10.06.2024. The 6th respondent further contended that the petitioner at all stages of the proceedings, remained exparte and therefore, there is absolutely no *bona fides* in the application. The 6th respondent contended that the petitioner was given ample opportunity to cross examine PW1, however, he was not ready and hence, he was set exparte on 11.01.2023. The 6th respondent further contended that the suit was posted for several hearings and only thereafter, the exparte decree was passed on 10.06.2024. The 6th respondent contended that the petition was filed only to prolong the proceedings and therefore, deserved no merit.



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(5) The Trial Court, after perusing the entire materials on record, found that the contentions of the petitioner that due to ill-health, he was not able to contact his counsel on 10.06.2024, was baseless and not satisfactory. The Trial Court further found that the contention of the petitioner that the delay occurred since the legal heirs of the first plaintiff had to be brought on record, was also untenable since the suit papers and case records revealed that the legal heirs of the deceased first plaintiff, were already brought on record by the plaintiffs even during the pendency of the suit. The Trial Court, therefore found that the reasons cited by the petitioner were unsatisfactory and not convincing. The Trial Court, on the basis of the case history, found that the petitioner had wantonly prolonged the case for eight years and that the petition lacked *bona fides* and hence, the Trial Court dismissed the petition.

(6) The learned counsel for the petitioner submitted that the delay was not huge and therefore, the Trial Court, on a liberal consideration of the facts, ought to have exercised its discretion in favour of the petitioner and condoned the delay, by imposing cost. The learned counsel further submitted that the Trial Court ought to have allowed the matter to be decided on merits rather than throwing it out on technicalities. The learned counsel submitted that the normal Rule is to condone the delay, since no party gains by delay.

(7) The learned counsel for the respondents, on the other hand, relying on the averments made in the counter affidavit, submitted that liberal consideration would arise only when sufficient cause is shown with supporting material.



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The learned counsel submitted that as the explanation was vague and uncorroborated and contradicted by the record, the Trial Court is fully justified in declining to condone the delay. The learned counsel therefore submitted that the Civil Revision Petition lack merits and hence, prayed for dismissal of the same.

(8) Heard the learned counsels on both sides and perused the materials placed on record.

(9) Indisputably, the delay is only 70 days in filing the petition seeking to set aside exparte decree. The reasons cited by the petitioner for condoning the delay of 70 days are that he was not able to contact his counsel on 10.06.2024, when the exparte decree was passed and because of the death of the 1st plaintiff, the petitions were to be filed to bring on record, the Lrs. of the deceased 1st plaintiff. The Trial Court, on an appreciation of the case history, held that several opportunities were given to the petitioner in the trial which commenced on 14.09.2024, and that despite several opportunities, the petitioner failed to cross examine the plaintiffs, and therefore he was set exparte on 11.01.2023. The trial Court also found that after a lapse of 1 ½ years from the date he was set exparte, the petitioner filed the Section 5 application to set aside the exparte decree dated 10.06.2024. From the order of the Trial Court, it is seen that the petitioner was granted several opportunities to cross examine the plaintiffs, viz on 19.10.2022, 09.11.2022, 28.11.2022, 30.11.2022, 23.12.2022 and 11.01.2023. Despite the above



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opportunities to the petitioner to cross examine the plaintiffs, the petitioner failed to participate in the trial and therefore, he was set exparte on 11.01.2023. One and half years after the petitioner was set exparte, the exparte decree was passed on 10.06.2024. The petitioner in the interregnum did not take any steps to set aside the exparte order dated 11.01.2023. It is seen that the petitioner in his application to condone the delay in seeking to set aside the exparte decree did not offer any explanation for not appearing in Court between 11.01.2023 and 10.06.2024. Even the other reason cited by the petitioner that the delay in filing the Section 5 application occurred because the legal heirs of the deceased plaintiff had to be brought on record is apparently false, since the respondents during the pendency of the suit brought themselves on record.

(10) It is to be noted that the suit was filed on 12.09.2016, the trial commenced on 14.09.2022 and the exparte decree was passed on 10.06.2024. As rightly pointed out by the trial Court, the case history clearly establishes that the petitioner successfully prolonged the proceedings for eight years and added to that even the explanation offered for condoning the delay is unsatisfactory and unsupported by any tangible evidence. Under the circumstances, this Court finds that the application lacks bonafides. Therefore, this Court finds no compelling reasons to interfere with the factual findings of the Trial Court which are based on evidence on record.

(11) The question that arises now is, whether the delay, which is merely 70 days



can be condoned by taking a liberal view and on conditions, if any.

(12) The Hon'ble Supreme Court, in **Collector, Land Acquisition, Anantnag Vs.**

Mst. Kathiji and Others reported in **AIR 1987 SC 1353**, advocated liberal

approach in condoning the delay for sufficient cause by holding that

"ordinarily a litigant does not stand to benefit by lodging an appeal late."

However, the Hon'ble Supreme Court in **Pathapati Subba Reddy [Dead] by**

LRs Vs. The Special Deputy Collector, Land Acquisition reported in (2024)

12 SCC 336, held that even for adopting a liberal approach in condoning the

delay, existence of sufficient cause for not filing the appeal in time, is

mandatory for exercising the discretionary power to condone the delay. The

Apex Court further held that the phrases *"liberal approach, justice oriented*

approach and cause for advancement of 'substantial justice', cannot be

employed to defeat the law of limitation so as to allow stale matters or as a

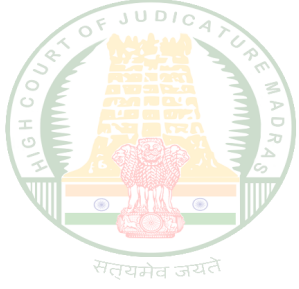
matter of fact dead matters to be revived and re-opened by taking aid of

Section 5 of the Limitation Act". While explaining the expression, sufficient

cause, in **Basawaraj and Another Vs. Land Acquisition Officer**, reported in

2013 [14] SCC 81, the Hon'ble Supreme Court held as follows:-

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent,



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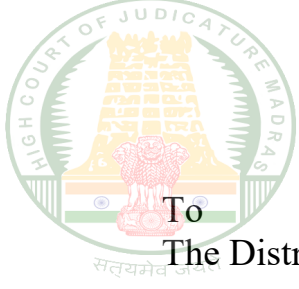
or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

(13)The materials on record clearly establish that the petitioner despite several opportunities given to him, deliberately failed to co-operate in the trial. The case history clearly reflects the indolent conduct of the petitioner and therefore, this Court, in the absence of sufficient cause, finds no warrant to adopt a liberal approach.

(14)Hence, this Court finds no merit in the Civil Revision Petition and accordingly, the same is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

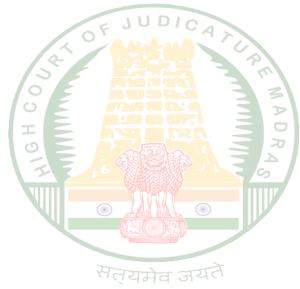
01-06-2026

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Speaking order
Neutral Citation: Yes
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AP/dsn



To
The District Munsif, Sholingur.

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N.MALA J.

AP/dsn

**Order in
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01.06.2026