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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2026

CORAM

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CRP. No.4542 of 2023  
and CMP. No.27180 of 2023**

T.Murugesan

Petitioner

Vs

P.K.Palanisamy

Respondent

**PRAYER:** This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and final order passed in I.A. No.540 of 2017 in O.S. No.214 of 2015 on the file of the Sub Court, Udumalpet dated 20.03.2018.

For Petitioner : Mr.B.Kumarasamy

For Respondent : No Appearance

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**ORDER**

The defendant in OS.No.214 of 2015 before the Sub-Court, Udumalpet is the revision petitioner, aggrieved by the dismissal of I.A.No.540 of 2017 which was taken out by the petitioner for condonation of delay of 144 days in filing the application to set aside the ex- parte decree.



2. Despite service of notice on the respondent, the respondent has neither chosen to appear in person nor through counsel. I have therefore proceeded to hear the learned counsel for the petitioner, Mr.B.Kumarasamy. I have also gone through the records filed by way of typed set of papers, including the impugned order in I.A.No.540 of 2017.

3. Mr.B.Kumarasamy, learned counsel for the petitioner, would bring to my notice that the defendant was set ex-parte in the suit on 22.09.2016 and an ex- parte decree was passed. In order to set aside the ex- parte decree, an application was filed along with a condone delay application under Section 5 of the Limitation Act, seeking condonation of delay of 144 days. The learned counsel for the petitioner states that despite sufficient cause being shown and the counsel for the respondent/plaintiff also expressing no objection, the Trial Court has unfortunately dismissed the application on erroneous application of facts and law. The learned counsel would therefore state that the revision may be allowed and an opportunity may be given to the petitioner to contest the suit on merits, especially when the valuable immovable property of the petitioner is being attempted to be taken away under an alleged agreement of sale, which was executed only for purposes of security.



4. On going through the records, I find that the respondent did not even object to the delay being condoned. The delay was also not inordinate, but only 144 days. The petitioner has stated in the affidavit that he was ill and therefore, he could not attend the Court or file the application to set aside the ex-parte decree in time. In such circumstances, the Trial Court ought to have adopted a liberal approach, considering the stake of the parties involved in the suit and permitted the petitioner to defend the suit on merits. The Trial Court has erroneously dismissed the application, relying on decisions where the Courts turned down condone delay applications, finding that either sufficient reasons had not been given or just cause had not been shown.

5. In the light of the above, I am inclined to allow the revision. The Civil Revision Petition is allowed. Order in IA.No.540 of 2017 in OS.No.214 of 2015 is set aside. The Trial Court shall take up the Order IX Rule 13, application and dispose of the same within a period of four (4) weeks after giving fair opportunity to both parties. Consequently, connected Miscellaneous Petition is closed. No costs.

**25.02.2026**

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Neutral Citation Case : Yes/No  
Internet: Yes/No  
Index : Yes/No



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**P.B.BALAJI, J.,**

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To:

The Sub Judge, Udumalpet.

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(1/2)**

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