

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
29.04.2026PRONOUNCED ON
05.06.2026

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CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1684 of 2017

K. Kuppan

..Petitioner(s)

Vs

1. Kannan(died)
2. Balu
3. Govindan(died)
4. Sukra
5. Srinivasan
6. Paanjaalai
7. Baskaran
8. Parimala

(Responent-1 Died. Respondents 4 to 8 are brought on record as LRs of the deceased R-1 Viz.Kannan vide court order dated 15/11/2024 made in CMP NOS.5227 to 5229 of 2024 and CMP NOS.21523, 21524 and 21526 of 2022 in CRP No.1684 of 2017)

9. Mrs.Kanagavalli
- 10.Ramesh

(Responent-3 Died. Respondents 9 and 10 are brought on record as LRs of the deceased R-3 Viz.Govindan vide court order dated 15/11/2024 made in CMP NOS.5227 to 5229 of 2024 and CMP NOS.21523, 21524 and 21526 of 2022 in CRP No.1684 of 2017)

- 11.S. Shanthi

(R11 IMPEADED AS PARTY
RESPONDENT VIDE ORDER OF COURT
DATED 18/03/2026 MADE IN
CMP.2929/2025 IN CRP.1684/2017)

..Respondent(s)



PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and Decreetal order in I.A.56 of 2015 in Un Numbered A.S.of 2015 dated 22.12.2016, on the file of the Principal Subordinate court at Thiruvannamalai.

For Petitioner(s): Mr.M. Himavanth

For Respondent(s): Mr.D.Rajagopal for R11
RR1 & 3 - Died
R2 – no appearance
RR4 to 10 – Not ready in notice

ORDER

The present Civil Revision Petition has been filed seeking to set aside the order and Decreetal order dated 22.12.2016 made in I.A.56 of 2015 in Un Numbered A.S.of 2015, on the file of the Principal Subordinate court at Thiruvannamalai.

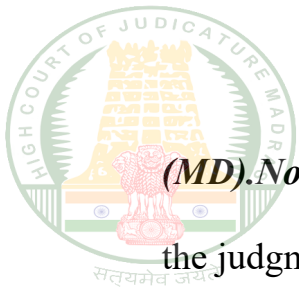
2. Mr. M. Himavanth, learned counsel for the petitioner would submit that he had instituted a suit for a permanent injunction as against the respondents not to interfere with his peaceful possession and enjoyment of the suit property. He would submit that in the aforesaid suit, he had examined himself as PW1 and was not cross-examined by the respondents. However, the suit came to be dismissed by recording various factors which are not connected with the suit and the issues were answered in favour of the petitioner on the finding that the property belongs to the petitioner and he is in possession of the



property. The dismissal of the suit was also not intimated to the petitioner by his counsel and when it had come to his knowledge, he had filed an Appeal suit in which he had also taken out an application to condone the delay, giving valid and cogent reasonings by which the delay has occasioned had sought for condoning the delay.

3. He would submit that the same was opposed to by the respondents by contesting that the petitioner before the Court had taken out a Memo to dismiss the suit as not-pressed and therefore, he does not have a *locus standi* to maintain the Appeal suit. He would submit that the application was also contested by the respondent as not being supported by any materials to condone the delay. He would submit that the suit had been dismissed and he had not been informed to by the learned counsel who had appeared on his behalf about the dismissal of the suit. He would submit that the petitioner due to avocation had also been living away from the suit property and therefore, he was not aware of the dismissal of the suit. These reasonings were not accepted to by the Court below while dismissing this application.

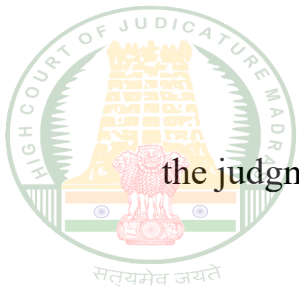
4. In support of his contentions with regard to the limitation, he had relied upon various judgments of this Court to contend that the Court should take a lenient view in deciding the issue of limitation. He would further rely upon the judgment of the learned Single Judge of this Court in **CRP(NPD)**



(MD).No.1303 of 2012 as reported in 2019 (5) LW 161. He would submit that the judgment rendered by a Court to record its satisfaction by giving its findings and reasonings and cannot be cryptic unreasoned judgment and the same could be interfered with by the Court. Hence, he seeks indulgence of this Court.

5. Countering his arguments, Mr.D.Rajagopal learned counsel appearing on behalf of the 11th respondent, who had been impleaded as a party to the Revision on the strength that he has been the subsequent purchaser of the suit property and that she will be the only the contesting respondent, would submit that the suit itself had ben filed to harrass the owners of the suit property who are the vendors in interest and that the suit schedule property is a Patta land belonging to the sixth respondent by a valid sale from her vendors and that the petitioner had not been diligent enough in prosecuting the suit as even in the judgment and the decree of the Court, the Court has recorded a fact that the petitioner had not made himself available for cross-examination, no reasons have been attributed by the petitioner as to why he had failed to diligently prosecute the suit.

6. Apart from that, a Memo had been filed by his counsel not pressing the suit and there is also no reasons attributed by the petitioner as to why such an instruction was given to his counsel to not-press the suit and having filed such a Memo, the petitioner do not have any *locus standi* to file an Appeal as against



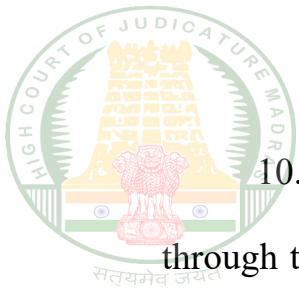
the judgment and decree of dismissal of the suit.

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7. He would further heavily contest that the petitioner had not also given any valid reasonings as to the delay and had in a casual manner filed the present application to condone the delay. Hence, he seeks dismissal of the Revision.

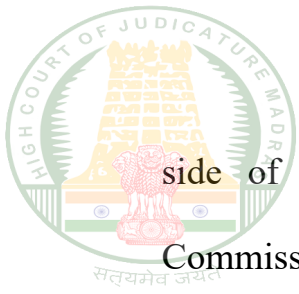
8. I have considered the submissions made by the learned counsels appearing on either side and also perused the materials available on record.

9. The suit filed by the petitioner in the year 2009 was contested to by the respondents. It is the case of the petitioner that he had not been aware of the proceedings which ended in an order of dismissal of the suit, in spite of a finding of issues particularly with the title to him and his possession of the suit property in his favour. On the contrary, it is the claim of the respondents that during the trial of the suit, the learned counsel for the petitioner had filed a Memo indicating that the petitioner do not press the suit and sought for its withdrawal of which no reasons have been attributed as to why such a Memo had been filed and on that strength there is no *locus* on the petitioner to prefer an Appeal against the said judgment and decree and also that the petitioner had not given any valid reasonings to condone the period of limitation.



10. In view of the aforesaid contentions, this Court had thoroughly gone through the Court records of the suit in O.S.No.8 of 2009 and also particularly the note papers of the Court. The note papers would reveal that as early as in the year 2009 the suit was taken up for trial and on 12.04.2010, the plaintiff in the suit had filed his proof affidavit and thereafter, was adjourned for marking of documents which was also permitted by order dated 25.08.2010 and documents under Exs.A1 to A7 were marked and Ex.A2 was marked subject to admissibility of the said document. Thereafter, the matter had been adjourned for cross-examination of PW1 by the respective defendants and such cross-examination continued till 12.11.2013, when the cross of PW1 was completed by the third defendant and the Court has also recorded that for further cross-examination of plaintiff witnesses, the case was adjourned to 19.11.2013 and thereafter, continuously adjourned for that purpose, but, however, on 16.12.2013, the Court had recorded that the proof affidavit of PW1 had been filed and was adjourned for further cross-examination on 02.01.2014 and to subsequent dates. On 27.01.2014, the order records that a Memo had been filed seeking dismissal of the suit as not-pressed and hence, the cross of PW1 had been closed and posted for judgment on 31.01.2014 and the note paper further reveals that on 31.01.2014 the suit had been dismissed with costs.

11. A perusal of the judgment and decree would indicate that the plaintiff had examined himself as PW1 and had marked Exs.A1 to A7 and that on the



side of the defendant, there was no oral or documentary evidence. A Commissioner's Report and plan were also marked as Exs.C1 & C2. However, the judgment also records that the suit had been posted for cross-examination of PW1 for more than ten hearings and he had not presented himself and the learned counsel for the plaintiff had reported no instructions. The above recording of facts by the Trial court in its judgment runs contrary to the note papers of the proceedings in the said suit.

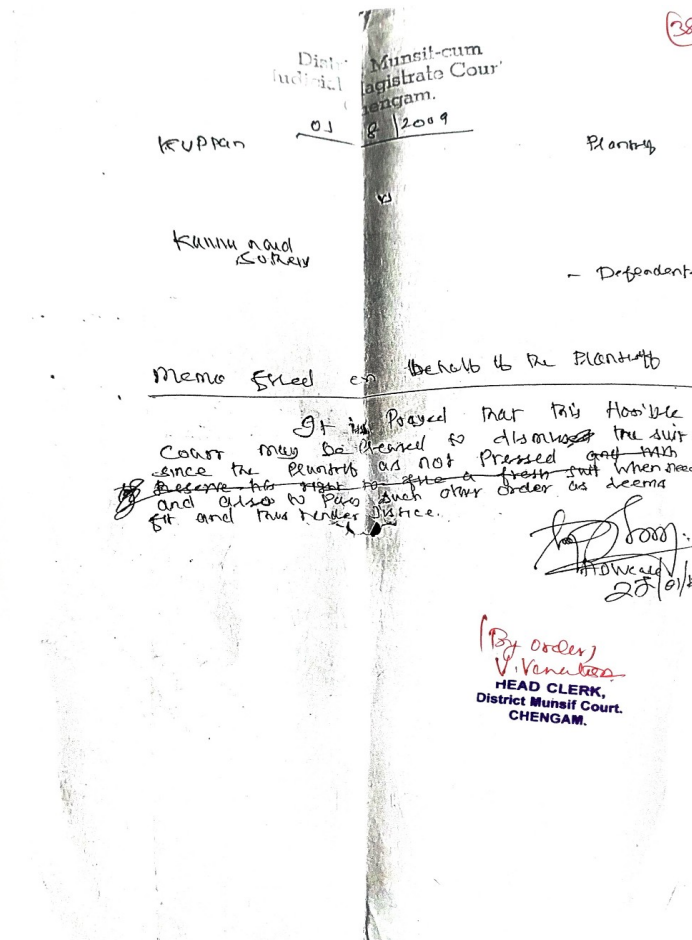
12. That apart, while discussing the issue Nos.1 to 3, the Trial court had given details of Exs.A1 to A9 where only Exs.A1 to A7 had been marked through PW1. The description of Exs.A1 to A9 do not tally with the exhibits that were marked and noted in the foot of the judgment. The Trial court had also given a finding in favour of the plaintiff in respect of issue No.1 & 2, but had dismissed the suit. This Court is unable to comprehend the judgment that had been made by the Court and is of the conclusive view that the said judgment is not in consonance with the Provisions of Order XX CPC. There is a glaring error that is reflected from the Court records as indicated supra.

13. That apart, it is also to be seen that a Memo had been filed by the learned Counsel for the plaintiff seeking the Court to dismiss the suit as not-pressed. In the said Memo, the learned counsel for the first defendant had made an endorsement indicating that the Memo can be allowed on cost. The learned



counsel for the other respondent had made an endorsement that the suit may be dismissed without any condition. A further endorsement is also made by the Judicial Officer recording the said Memo and the same is dated 27.01.2014.

14. The Memo is a hand written Memo by the counsel on the reverse of which the above endorsements were noted. The Court is also surprised to see an endorsement on the left hand side of the said sheet which also seems to bear the initial of the Judicial Officer without date indicating that such Memo cannot be filed and a petition had to be filed under Order XXIII Rule 1 of CPC. The said endorsements as found in the said Memo are scanned and copied hereunder:-





<https://www.mhc.tn.gov.in/judis>



District Munsif Court
CHENNAI



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05.08/09 SED

25/8/10

GA 21760 is allowed
Documents are sent
for subjects to
admissibility of
document, the
plaintiff is permitted
to mark the
same. For
marking documents
at reg 6/9/10

6.9.10

For marking documents.
Plaintiff is permitted
Marking documents
by 14/9/10
SL L

14.9.10

For marking documents and
crosses Plw is pt. EXA-7
are marked. Rth
is subject to
admissibility of
documents 22/9/10

22.9.10
Plw cross pushed to 4.10.10
b/n
Hc

22.9.10

Plw cross pushed to 4.10.10
b/n
Hc

4.10.10

Plw cross
Plw + 2 are pt
Plw cross of 25/11/10

25.11.10

Plw cross Plw is pt
by 06/12/10 m

6.12.10

Plw cross Plw is pt
at reg 14 by 10/12/10

10.12.10

Plw cross Plw is pt
at reg 14 by 10/12/10

By order
HEAD CLERK,
District Munsif Court,
CHENGAM.



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8/09

22.8.13

On 12.8.13
DA 130/13 & Reshma
Smt & Reshma
Pw1 cross ex
D3 90

10.9.13 as LC

18-9-13 SMO

Pw1 cross ex D3

17.9.13 SMO

17.9.13

Pw1 cross and D3

27-9-13 SMO

27.9.13 Pw1 cross and D3

7.10.13 SMO

05.08/09

7.10.13

Pw1 cross of D3

21-10-13 SMO

21.10.13

Pw1 cross of D3

5.11.13 SMO

5.11.13

Pw1 cross of D3

11.11.13 SMO

11.11.13

Pw1 cross of D3

12.11.13 SMO

12.11.13

Pw1 cross of D3

19.11.13 SMO

Pw1 Crossed
by D3. for further
Pw1s by 19.11.13 SMO

By order
V. Venkatesh

HEAD CLERK,
District Munsif Court,
CHENGAM.

19.11.13



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05.8/09

19.11.13
For further Pw's
26.11.13
26.11.13
For further Pw's
29.11.13
29.11.13
For further Pw's
2.12.13
for further Pw's
6.12.13
6.12.13
For further Pw's
10.12.13
10.12.13
For further Pw's
16.12.13 as LL
16.12.13
for further Pw's

05.8/09 AMO
NP

16.12.13
PA of Pw1 filed.
Cross 2.1.14
21.1.14
For cross
9.1.14
9.1.14
For cross
20.1.14
20.1.14
For cross
27.1.14
27.1.14
For cross
Memo filed as suit
may be dismissed
as not pressed.
Cross of Pw1 closed.
Hence judgment by
21.1.14

By order
HEAD CLERK,
District Munsif Court,
CHENGAM.

These scanned and recorded part of the notes read along with the judgment rendered in the suit would only reflect the sad state of affairs particularly to the



manner in which the official duties of the Judicial Officer had been performed stands reflected. The recordings made are also supported by the deposition of PW1 both in his chief and in cross by the defendants stands substantiated.

16. The present Appeal is an Appeal as against the order rejecting the application to condone the delay in filing the Appeal suit against the judgment and decree in dealing with the said issue, the above shocks revelation conscience of the Court had been unveils the manner in which the judgment and the decree had been made in the view of the Court is *ex-facie* illegal and cannot be allowed to be continued. There have been material inconsistencies in recording of the facts by the Judicial Officer concerned which have all been noted above.

17. In such an event, this Court is constrained to exercise its power under Article 227 of the Constitution of India and if it fails to do so, it would only be this Court turning a blind eye by failing to set aside the illegality committed in the present suit.

18. For the aforesaid reasons, this Court set asides the judgment and decree dated 31.01.2014 made in O.S.No.8 of 2009 on the file of Principal District Cum Judicial Magistrate Court, Chengam, and directs the trial in the aforesaid suit from the stage at which it stood ie., on 12.11.2013 and direct



disposal of the suit ie., list the matter for cross-examination of further plaintiff witnesses and thereafter proceed with the suit in the manner known to law and dispose of the same within a period of six (6) months from the date of receipt of a copy of this order. The revision stands disposed of accordingly.

Note: The Registry is directed to place this order along with the certified copies of the back bundle as received from the District Munsif Court, Chengam before the My Lord Hon'ble Chief Justice and also to the Hon'ble Portfolio Judge on Thiruvannamalai District to look into the issue and for proper and appropriate action against the said Judicial Officer concerned.

05-06-2026

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

GBA



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CRP No. 1684 of 2



K.KUMARESH BABU, J.

GBA

CRP No. 1684 of 2017

05-06-2026