



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 16.12.2025

Order pronounced on : 30.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4099 of 2024
& CMP.No.22530 of 2024

K.Arulmozhi

... Petitioner

Vs.

G.Subramani

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decretal order dated 23.08.2024 in I.A.No.1 of 2024 in I.A.No.171 of 2017 in I.A.No.19 of 2016 in O.S.No.26 of 2015 on the file of the District Court, Tirupattur, Tirupattur District.

For Petitioner : Mr.Pa.Sudesh Kumar

For Respondent : Mr.M.Himavanth

ORDER

The revision petitioner is the defendant in a suit for specific performance in O.S.No.26 of 2015 before the District Court, Tirupattur,



Tirupattur District. The said suit came to be decreed ex-parte and the petitioner filed an application in I.A.No.19 of 2016, seeking to set aside the ex-parte decree. The said application in I.A.No.19 of 2016 came to be dismissed for default and in order to restore the said application, the petitioner filed an application in I.A.No.171 of 2017 under Section 5 of the Limitation Act, seeking condonation of delay of 494 days in filing an application to set aside the ex-parte decree. I.A.No.171 of 2017 was dismissed for non-prosecution and in order to restore I.A.No.171 of 2017, I.A.No.1 of 2024 was filed. The said I.A.No.1 of 2024 came to be dismissed by the trial Court, as against which, the present revision has been filed.

2.I have heard Mr.Pa.Sudesh Kumar, learned counsel for the revision petitioner and Mr.M.Himavanth, learned counsel for the respondent.

3.Mr.Pa.Sudesh Kumar, learned counsel appearing for the revision petitioner would submit that the suit is one for specific performance and the petitioner should be given an opportunity to contest the suit on merits, as otherwise his valuable property rights would be taken away by the respondent, under the guise of the suit sale agreement. He would also take me through the judgment passed by the trial Court and contend that the trial



Court has not applied its mind to the essential factors that would have to go into deciding the suit for specific performance and therefore, according to the learned counsel for the petitioner, the judgment is also improper and in such circumstances, the Court should have taken a liberal view by affording an opportunity to the petitioner to contest the suit.

4.The learned counsel for the petitioner would further state that pursuant to the orders passed in the above revision petition, more particularly in CMP.No.22530 of 2024, the petitioner has also deposited a sum of Rs.15 lakhs before the District and Sessions Judge. Pointing out to the fact the respondent had prayed for an alternate relief of refund of advance of Rs.15 lakhs, the learned counsel for the petitioner would submit that no prejudice would be caused to the respondent, if the ex-parte decree is set aside and the suit is tried expeditiously, on merits and in accordance with law, as the interest of the respondent/plaintiff has been successfully safeguarded by paying the petitioner, by depositing Rs.15 lakhs which is the advance amount paid by the respondent.

5.Per contra, Mr.M.Himavanth, learned counsel appearing for the



respondent would submit that the executing Court, pursuant to the ex-parte decree, has already executed the sale deed in favour of the respondent on 21.02.2018 and subsequently, in E.A.No.22 of 2018 in E.P.No.01 of 2017, the executing Court has allowed the delivery application on 23.08.2024 and possession itself has been taken on 09.09.2024.

6.It is the submission of the learned counsel for the respondent that the petitioner, suppressing all these material subsequent events, has approached this Court and obtained an interim stay. He would further state that even the factum of possession being taken has been recorded and what remains is only closure of the EP proceedings, which has not been done only because of the interim stay granted by this Court.

7.The learned counsel for the respondent would also submit that the decree was passed way back on 03.12.2015 and the petitioner filed an application under Order IX Rule 13 of CPC in I.A.No.19 of 2016. The said I.A.No.19 of 2016 was dismissed on 25.02.2016 and along with an application to condone the delay of 494 days to restore I.A.No.19 of 2016 to file, I.A.No.171 of 2017 was filed. Even the said I.A.No.171 of 2017 was also dismissed and thereafter, I.A.No.02 of 2019 was filed to condone the



delay of more than 570 days. Despite the said application in I.A.No.2 of 2019 being allowed, subsequently, I.A.No.1 of 2024 has been dismissed by the trial Court, finding that the petitioner has not shown sufficient cause and has not been diligent in prosecuting and defending the suit for specific performance. The learned counsel for the respondent would further state that in view of the sale deed having already been executed and registered in favour of the respondent and possession of the property has also been delivered, nothing survives for further consideration in the revision, at this stage. He would therefore pray for dismissal of the revision.

8.I have carefully considered the submissions advanced by the learned counsel for the parties.

9.The respondent filed O.S.No.26 of 2015 for specific performance of an agreement of sale. The suit came to be decreed on 03.12.2015, though ex-parte. In compliance with the decree, the respondent has also deposited the balance sale consideration on 11.12.2015 and thereafter, the executing Court has proceeded to execute and register the sale deed in favour of the respondent. Subsequently, in E.A.No.22 of 2018, by order dated 23.08.2024, the executing Court has also allowed the delivery application filed by the



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respondent/decreed holder. In furtherance of the same, the respondent has also taken possession of the suit property on 09.09.2024. The above revision petition has been filed only on 25.09.2024 and the petitioner has not chosen to disclose the fact that the sale deed has been executed and possession has also been delivered to the respondent.

10. Be that as it may, the petitioner has to make out sufficient cause before becoming entitled to any favourable order in the revision petition. As already discussed, during the narration of the trajectory of the suit, as well as the execution petition, it is clear that the petitioner has been adopting a callous approach throughout, right from the day on which the ex-parte decree came to be passed. The petitioner cannot claim to have acted diligently or with any bonafide intention. The trial Court has taken note of the conduct of the revision petitioner and rightly came to the conclusion that the petitioner has not shown any serious interest in contesting the matter and has only indulged in protracting the proceedings, by filing one application after the other and that the petitioner is not entitled to any equity. The order of the trial Court is a well reasoned order and I do not see any infirmity or perversity in the findings arrived at by the trial Court, warranting interference in this revision.



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11. In fine, the Civil Revision Petition is dismissed. However, the petitioner is permitted to withdraw the amount of Rs.15 lakhs deposited by the respondent in compliance with the orders in CMP.No.22530 of 2024 dated 14.10.2024 by taking out appropriate application before the District and Sessions Judge, Tirupattur. No costs. Connected Civil Miscellaneous Petition is closed.

30.01.2026

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The District Court, Tirupattur.

P.B. BALAJI, J.

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Pre-delivery order made in
CRP.No.4099 of 2024
& CMP.No.22530 of 2024

30.01.2026