



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 03.02.2026

Judgment pronounced on : 13.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.4672 of 2025
& CMP.No.24940 of 2025

CRP.No.4672 of 2025:

1.Kuppusamy
2.Mylaathal

.. Petitioners

Vs.

Kannammal

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and final order dated 19.08.2025 in I.A.No.04 of 2025 in O.S.No.440 of 2016 on the file of the District Munsif Court, Dharapuram.

CMP.No.24940 of 2025:

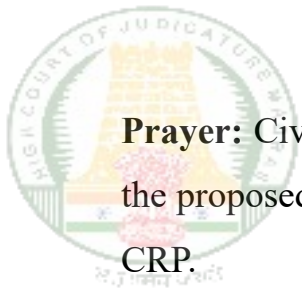
1.Kuppusamy
2.Mylaathal

.. Petitioners

Vs.

1.Kannammal
2.Marimuthu @ Mariappan
3.Deivathal

.. Respondents



Prayer: Civil Miscellaneous Petition filed under Order I Rule 10(2) of CPC, to implead the proposed respondents 2 and 3 in the above CMP as respondents 2 and 3 in the above CRP.

For Petitioners : Mr.R.Nandhakumar

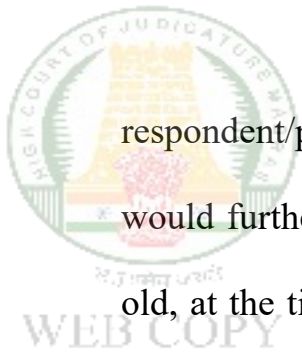
For Respondents : Mr.N.Ponraj for RR1 & 2
Mrs.A.Akshaya for R3

COMMON ORDER

I have heard Mr.R.Nandhakumar, learned counsel for the revision petitioner and Mr.N.Ponraj, learned counsel for the contesting respondents and Ms.A.Akshaya, learned counsel for the proposed respondent in CMP No.24940 of 2025.

2.The defendants 1 and 2 are the revision petitioners, challenging the order in I.A.No.4 of 2025 in O.S.No.440 of 2016 on the file of the District Munsif Court Dharapuram, in and by which, a delay of 489 days in filing the application to set aside the ex-parte decree was dismissed.

3.Mr.R.Nandhakumar, learned counsel for the petitioners would state that the plaintiff, claiming that the 2nd petitioner is the legally wedded wife of late Kuppusamy Gounder, had filed the suit seeking a relief of partition and the status of the 2nd revision petitioner was not disputed by any of the parties. He would therefore state that the



respondent/plaintiff was not entitled to a decree, which has been granted ex-parte. He would further state that the 1st petitioner is 62 years old, the 2nd petitioner is 82 years old, at the time of filing the application and because of their advanced age and various health ailments, including chronic heart problems for which medical records have also been filed, the delay of 489 days had been satisfactorily explained. However, the trial Court has adopted a very rigid approach and dismissed the application. The learned counsel for the petitioner would therefore state that an opportunity may be given to the petitioners to contest the suit.

4.Mr.R.Nandhakumar counsel would further state that the defendants 3 and 4 also remained ex-parte in the suit and an ex-parte decree came to be passed even as against them and therefore, it would be proper and necessary to array the defendants 3 and 4 as respondents in the revision as well. He would further state that no prejudice would be caused to any of the parties, especially since the suit is one for partition.

5.However, the request for impleading is strongly opposed not only by the 1st, respondent, but also by the proposed respondents, stating that even in the application before the trial Court, they did not choose to implead these respondents and therefore, when the order passed by the trial Court in such an application, to which the proposed respondents were not parties is alone being tested before this Court, the proposed parties



have no role and they are not proper and necessary parties. The respondents therefore prayed for dismissal of the impleading application.

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

7.In so far as the application for impleading, as rightly contended by the learned counsel for the respondents, as well as the proposed respondents, even in I.A.No. 4 of 2025, that is the condone delay application, the revision petitioners did not implead the proposed parties. The trial Court dismissed I.A.4 of 2025, accepting the objections of the respondents in the revision petition. The said order is now under challenge in this revision petition. Therefore, I do not see how the presence of the proposed respondents is going to add any value in deciding the instant revision petition. They are neither proper nor necessary parties to decide the entitlement of the revision petitioner to an order of condonation of delay. Therefore, there is no merit in the impleading petition and accordingly, CMP.No.24940 of 2025 is dismissed.

8.Coming to the revision petition, the delay of 489 days is sought to be condoned contending that the petitioners are very aged and also suffering from various ailments. The trial Court has rightly taken note of the cause shown by petitioners and finding that the petitioners had knowledge of the ex-parte preliminary decree even as early as on



13.08.2024, they took their own sweet time of eight months to approach the Court to set aside the ex-parte preliminary decree. This delay has weighed in the mind of the trial Court and in my considered opinion, having come to know of the ex-parte decree on 13.08.2024, the petitioners are not expected to be silent, without taking any steps. They have also appeared in the final proceedings in the interregnum period as well. In such circumstances, the trial Court has rightly found that the petitioners have not made out any sufficient cause entitling them to an order of condonation of delay. I do not find any merit in the revision petition also.

9. In fine, CMP.No.24940 of 2025 is dismissed and consequently, CRP.No.4672 of 2025 is also dismissed. No costs.

13.02.2026

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

The District Munsif Court, Dharapuram.



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P.B.BALAJI.J,

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Pre-delivery judgment made in
CRP.No.4672 of 2025
& CMP.No.24940 of 2025

13.02.2026