



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.02.2026

Pronounced on: 27.02.2026

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.5063 of 2023
and CMP. No.29451 of 2023**

S.Sathishkumar

Petitioner(s)

Vs

1.M.Santhi
2.S.R.Surya Prakash
3.Venkateshwaralu

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of CPC, to to set aside the order dated 27.09.2023 passed in I.A. No.2 of 2021 in A.S. SR. No.3350 of 2021 by the Hon'ble Principal District Judge, Thiruvallur and consequently, allow the I.A. No.2 of 2021 in A.S. SR. No.3350 of 2021 on the file of the Hon'ble Principal District Judge, Thiruvallur.

For Petitioner : Mr.D.Kulasekaran
For Respondents : Mr.R.Selvakumar for R1
No Appearance for R2 and R3

ORDER

The revision petitioner is the appellant, aggrieved by the dismissal of his application seeking condonation of delay of 885 days in preferring the First Appeal, challenging the fair and decretal order in IA. No. 527 of 2013 in O.S



No.92 of 2000, dated 26.09.2018, on the file of the Subordinate Court,
Thiruvallur.

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2. I have heard Mr. D. Kulasekaran, learned counsel for the petitioner and Mr.R.Selvakumar, learned counsel for the contesting first respondent.

3. Mr.D.Kulasekaran, learned counsel for the petitioner would contend that the suit is one for partition and a final decree was passed in IA.No. 527 of 2013, with unfair division being approved by the Trial Court. The learned counsel would further state that the valid and tenable objections of the revision petitioner have not been taken into consideration by the Trial Court and therefore, the petitioner has preferred the First Appeal. Insofar as the delay, the learned counsel for the revision petitioner would state that his son is a special child and needs constant medical care and the petitioner was preoccupied with visits to the hospital and he was fully relying on his brother to file the appeal. He was under the impression that his brother would be taking care of the case and little did he realize that his brother was lethargic and did not file the appeal in time. The learned counsel would therefore state that the petitioner has made out sufficient cause explaining the delay of 885 days in preferring the first appeal and the learned First Appellate Court without appreciating the genuine difficulties of the petitioner, has erroneously proceeded to dismiss the condone

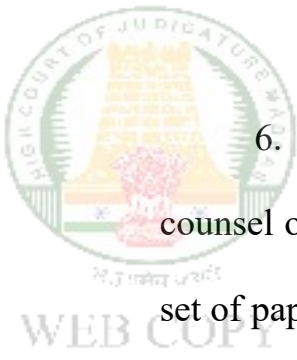


delay application. He would therefore state that a fair opportunity may be given to the petitioner to prosecute the appeal on merits.

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4. Per contra, Mr.R.Selvakumar, learned counsel for the first respondent would state that the First Appellate Court has rightly dismissed the application, finding that the petitioner has not shown sufficient cause, entitling him to exercise of discretion under Section 5 of the Limitation Act. He would further state that the final decree has already been given effect to even in 2018 and even at the time of the visit of the Advocate Commissioner, the petitioner was very much present and therefore, the averments made in the affidavit are false and invented for the purposes of explaining the inordinate delay. The learned counsel would therefore pray for the dismissal of the revision.

5. In reply, with regard to the final decree having already been given effect to, learned counsel Mr.Kulasekaran would rely on an additional typed set of papers, where to show that the first respondent himself has taken out an application seeking amendment of the final decree passed in IA.No. 527 of 2013 in IA.No. 1 of 2024. He would therefore state that the matter has not attained finality and as has contended by the learned counsel for the respondent.



6. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the records including the typed set of papers as well as the order impugned to the revision petition.

7. The only reason that is assigned by the petitioner in not preferring the appeal in time is that he was dependent on his brother, insofar as the case was concerned, as he was preoccupied with taking care of his special child and that only in April 2021, he came to know about the case. Firstly, the petitioner has not produced any documentary evidence to substantiate that his son is a special child and requires constant medical attention. Only before this Court, that too by way of an additional typed set, a medical certificate is produced. However, the same was not made available to the First Appellate Court, which was considering the entitlement of the petitioner to condonation of delay in preferring the appeal. Therefore, when I am only testing the correctness of the order of the First Appellate Court. I am unable to place any reliance on the document which is now relied on for the first time, in this revision petition.

8. Even though the learned counsel for the petitioner has also attempted to take shelter under the order of the Hon'ble Supreme Court dated 10.01.2022 in In Re: Cognizance for Extension of Limitation (COVID-19 Pandemic Extension), as rightly pointed out by Mr. Selvakumar when the petitioner's



application itself was filed during the COVID period, he cannot now take advantage of the order passed by the Hon'ble Supreme Court and contend that COVID period has to be excluded.

9. One another relevant aspect is that even in the counter affidavit, the respondent has clearly stated that the petitioner was present during the visit of the Advocate Commissioner before passing of the final decree. There is no reply affidavit denying the said statement in the counter affidavit. Therefore, the petitioner cannot be correct in contending that he was in dark and did not know about the final decree proceedings.

10. In view of the above discussion, I do not see any merit in the revision wanting interference under Article 227 of the Constitution of India. The order of the First Appellate Court, dismissing the condone delay application is a well-considered one and it is neither perverse nor illegal. In fine no merit, this Civil Revision Petition is **dismissed**. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

27.02.2026

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Neutral Citation Case : Yes/No
Internet: Yes/No
Index : Yes/No
To:
The Principal District Judge, Thiruvallur.



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P.B.BALAJI, J.,

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Pre-delivery order in
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and
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