WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP.No.6708 of 2026

CNR:{HCMA012351452026}

Case QR

1. Pazhani Ammal
2. Mani Pillai

..Petitioner(s)

Vs

Elumalai

..Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order passed in I.A.No.358 of 2024, in O.S.No.15 of 2019, on the file of District Munsif Cum Judicial Magistrate Court, Vikravanki, Villupuram District.

For Petitioners : Mr.T.K.Saravanan

For Respondent : No Appearance

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

WEB COPY

ORDER

The Civil Revision Petition has been filed challenging the order passed by the Court below in I.A.No.358 of 2024, in O.S.No.15 of 2019, dated 15.07.2026 dismissing the application filed by the petitioners seeking to condone the delay of 240 days in filing the petition to set aside the *exparte* decree passed against them.

2. The respondent herein filed a suit for declaration of title and permanent injunction in O.S.No.15 of 2019. In the said suit an *exparte* decree was passed against the petitioners on 07.09.2019. Thereafter, the petitioners filed an application to set aside the *exparte* decree along with the petition to condone the delay of 240 days. Both these application were filed on 08.01.2021. By impugned order, the condone delay petition was dismissed by the Trial Court and aggrieved by the same, the petitioners have come before this Court.

3. The learned counsel appearing for the petitioners by taking this Court to the affidavit filed in support of the condone delay petition, would submit that at the relevant point of time, the 1st petitioner was affected with jaundice and hence, she could not contact her counsel and instruct him suitably. It is further

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

WEB COPY

submitted that the petitioners filed an application to set aside the *exparte* decree immediately after recovery from the disease.

4. It is seen from the typed-set of papers that *exparte* decree was passed against the petitioners on 07.09.2019 and the instant application has been filed on 08.01.2021 well during covid exclusion period. It is asserted by the petitioners that at the relevant point of time, the 1st petitioner was affected by jaundice and she went out of her native place for the purpose of taking native treatment. The Trial Court refused to accept the reason assigned by the 1st petitioner and dismissed the condone delay application mainly on the ground that the 1st petitioner has not produced any documentary evidence to substantiate the illness and the medical treatment.

5. In the affidavit filed in support of the condone delay petition, the 1st petitioner asserted that she was suffering from jaundice and she had taken native treatment for the same. Since the 1st petitioner had taken native treatment for the illness, we cannot expect her to produce documentary evidence to substantiate the same.

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

WEB COPY

6. Having regard to the nature of the suit and the length of delay, this Court is inclined to take a liberal view of the matter and give one more opportunity to the petitioners to contest the case on merits.

7. Accordingly, this Civil Revision Petition stands allowed and the impugned order in I.A.No.358 of 2024, in O.S.No.15 of 2019, dated 15.07.2026, is set aside. The Trial Court is directed to take up Order 9 Rule 13 petition and dispose it of in accordance with law. No costs.

24-11-2026

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

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

WEB COPY

To

The District Munsif Cum Judicial Magistrate Court,
Vikravanki, Villupuram District.

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

WEB COPY

S.SOUNTHAR J.

dm

CRP.No.6708 of 2026

24-11-2026

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