



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 20.01.2026

Order pronounced on : 30.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.198 of 2026

K.Shanmugam

... Petitioner

Vs.

1.N.Manickam

2.K.Kalpana

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order and decree dated 10.10.2023 in I.A.No.1 of 2021 in Unnumbered A.S.SR.No.28229 of 2021 on the file of the Principal District and Sessions Court, Salem.

For Petitioner : Mrs.E.Yuvarani

For Respondent : Mr.P.Mohanraj

ORDER

The defendant in O.S.No.33 of 2011 on the file of the I Additional Sub-Court, Salem, is the revision petitioner, aggrieved by the dismissal of



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I.A.No.1 of 2021 in A.S.SR.No.28229 of 2021 which was filed for condonation of delay of 2507 days in preferring the appeal suit.

2.I have heard Mrs.E.Yuvarani, learned counsel for the petitioner and Mr.P.Mohanraj, learned counsel for the respondents.

3.Mrs.E.Yuvarani, learned counsel for the revision petitioner would contend that the suit was decreed on 12.12.2014, after contest. However, the petitioner was laid down because of health issues and he could not prefer the first appeal in time. She would also point out that as against a sum of Rs.1 lakh, which was paid under the agreement, which was marked as Ex.A1, the respondents claim a sum of Rs.2 lakhs and therefore, the petitioner should be given an opportunity to pursue the appeal and take a decision on merits. The learned counsel petitioner would state that the Courts have repeatedly held that when there is substantial merit, delay should not be put against the litigant and an opportunity should be given to the aggrieved party to pursue legal remedy. In this regard, the learned counsel for the revision petitioner would rely on the following decisions:



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4.The learned counsel for the petitioner also relies on the additional typed set of papers, containing the relevant exhibits that were marked during the trial of the suit and also deposition of the plaintiff and the defendant. Reliance is also placed on medical bills and reports.

5.Per contra, Mr.P.Mohanraj, learned counsel appearing for the respondents would contend that subsequent to the decree being passed on 12.12.2014, the respondent initiated execution proceedings and the petitioner, in fact, was only seeking time to settle the suit claim and therefore, at no point of time, the petitioner intended to challenge the judgment and decree. He would therefore state that the attempt to file the first appeal belatedly, is nothing but an attempt to protract the proceedings and deny the fruits of the decree to the respondents/decreed holders. He would further state that the trial Court has rightly dismissed the



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application and the said order does not warrant any interference in revision.

6.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the decisions on which reliance has been placed on by the learned counsel for the petitioner.

7.The suit in O.S.No.33 of 2011 was filed for recovery of money from the revision petitioner. The suit was contested and the District Judge, Salem, in and by a judgment dated 12.12.2014, decreed the suit. The respondents, armed with the decree, filed E.P.No.199 of 2015 to recovery the money. In the said execution proceedings, the petitioner entered appearance through advocate and also filed counter even in the year 2015. Therefore, the petitioner was having sufficient legal assistance even in the year 2015. No attempt was made by the petitioner then, to prefer an appeal against the judgment and decree in the suit. Belatedly, the petitioner chose to prefer the first appeal, along with an application for condonation of delay of 2507 days.



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8. Though it is contended by the learned counsel for the petitioner that the expression 'sufficient cause' should receive liberal construction and substantial justice should be rendered, I am unable to countenance the submissions made by the learned counsel for the petitioner. In fact, recently, the Hon'ble Supreme Court, in

, in

dated held that unless the party seeking condonation of delay makes out sufficient cause, the delay cannot be condoned and the approach of the Court should not be to look into the merit of the claim while considering an application for condonation of delay. The Hon'ble Supreme Court also held that the theory of liberal approach or advancing substantial justice cannot be a ground to condone delay and there can be no substitute for sufficient cause being shown which alone would entitle the Court to condone delay.

9. In the present case, I find that the petitioner has stated that he was healing and therefore, he could not prefer the appeal in time. As rightly found by the trial Court, even in E.P.No.199 of 2015, the petitioner has entered appearance and as dragged the execution petition for nearly six



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years before the executing Court ordered sale of the property on 09.11.2021. It is only at that stage when the appeal has been filed, along with an application to condone the delay of 2507 days.

10. Though the petitioner has now relied on an additional typed set of papers, containing medical bills and reports, firstly these documents were not exhibited before the trial Court. Secondly, even assuming a benefit of doubt can be given to the petitioner, I find that the medication and treatment undergone by the petitioner are only for minor health issues and can never be cited as good grounds for not being able to approach the counsel for preferring the first appeal in time. In any event, during the relevant period, after 2015, the petitioner has been participating in the execution proceedings as well. Therefore, I do not find any merit in the revision. The Court has rightly considered the reasons stated by the petitioner and found them to be unsatisfactory, disentitling the petitioner to an order of condonation of delay.

11. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.



30.01.2026

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

The Principal District and Sessions Court, Salem.

P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.198 of 2026

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