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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP Nos.7216 &7220 of 2026
C.M.P.Nos.31126 of 2026

CNR: {HCMA012422002026}

C.R.P.No.7216 of 2026:-

Case QR

Kaliappan

..Petitioner(s)

Vs

V.Kalaiselvi

..Respondent(s)

C.R.P.No.7220 of 2026

1.Kaliappan

2.Kumar

3.Mahendran ...Petitioner(s)

Vs

V.Kalaiselvi

..Respondent(s)

Prayer in C.R.P.No.7216 of 2026:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order dated 04.02.2026 passed in I.A.No.1 of 2022 in I.A.No.91 of 2021 in O.S.No.258 of 2016 by the III Additional District Court, Salem.

Prayer in C.R.P.No.7220 of 2026:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order and decretal order dated 11.08.2026 passed in I.A.No.2 of 2022 in O.S.No.258 of 2016 by the III Additional District Court, Salem.

In both C.R.P's:-

For Petitioner(s): Mr.R.Venkata Varathan
For Respondent(s Mr.S.Azhaguvel

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COMMON ORDER

The Civil Revision Petitions are filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking to condone the delay of 1433 days in filing application seeking to set aside the ex-parte decree passed against him and also dismissing the application filed by the petitioner seeking to set aside the ex-parte order passed against him in the final decree proceedings.

2.The respondent herein filed a suit for partition against the petitioners. In the said suit, petitioners initially entered appearance and thereafter failed to file written statement within a time granted by the Court below. Hence, ex-parte preliminary decree for partition was passed on 14.03.2018. Aggrieved by the same the petitioners filed application to set aside the ex-parte preliminary decree along with petition to condone the delay of 1433 days in filing such application. The said condone delay petition was dismissed. Aggrieved by the same, petitioners preferred C.R.P.No.7220 of 2026.

3.After passing of the ex-parte preliminary decree, the respondent herein filed final decree application for passing of final decree. In the said application also petitioner was set ex-parte. Hence, he filed an application seeking to set

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aside the ex-parte order passed against him and the same was dismissed by the trial Court. Aggrieved by the same, the petitioner / first defendant preferred C.R.P.No.7216 of 2026.

4.In the affidavit filed in support of the condone delay petition, it was stated by the petitioner / first defendant that at the relevant point of time he was suffering from sugar, high blood pressure and other diseases and he was taking treatment for his ailments. It was also stated he was continuously bed ridden for a period from 01.03.2018 to 31.05.2018. Hence, he sought for condonation of delay and setting aside the ex-parte preliminary decree passed against him.

5.In the affidavit, the petitioner mentioned sugar and high blood pressure and other diseases suffered by him. It was also admitted he was bed ridden only for three months from 01.03.2018 to 31.05.2018. However, the present application to set aside the ex-parte preliminary decree was filed only on 16.03.2022. Therefore, the petitioner has no explanation for a period from 01.06.2018 to 16.03.2022. The vague allegation made by the petitioner as if he was suffering from high blood pressure, sugar etc., are not sufficient to condone the inordinate delay of 1433 days.

6.It is seen from the records the application to set aside the ex-parte preliminary decree along with condone delay petition was filed by the petitioner

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Kaliappan, the first defendant therein along with defendants 2 and 3 who are all his sons. If the petitioner is affected by any kind of illness, the other defendants 2 and 3 who are all sons of petitioner / first defendant could have taken steps to continue the litigation on his behalf. In the affidavit filed in support of the condone delay petition no reason has been assigned why the petitioner's sons namely the defendants 2 and 3, who were also arrayed as petitioners before the Court below have not taken any steps.

7.Taking into consideration all these facts, the trial Court rightly came to the conclusion that petitioners failed to show sufficient cause and refused to condone the delay. I do not find any error in the impugned order. Accordingly, C.R.P.No.7220 of 2026 is dismissed.

8.The C.R.P.No.7216 of 2026 has been filed challenging the dismissal of application seeking to set aside the ex-parte order passed in final decree proceedings. In the affidavit filed in support of the said application, it was stated that petitioner / first defendant was senior citizen and he did not have enough knowledge about the Court proceedings. It was also further stated that he handed over his vakalat to his counsel and the counsel filed vakalat in a box and the same was returned. Further it is stated that due to Covid Pandemic, the petitioner could not contact his counsel and take steps to follow up the case. It is further stated that he received Commissioner's notice on 25.01.2022. Only

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thereafter, he met the counsel and had taken steps to set aside the ex-parte order passed against him.

9.It is seen from the impugned order the petitioner was set ex-parte in final decree proceedings and an Advocate Commissioner was appointed to suggest mode of division. Till date the Advocate Commissioner has not filed any report. While disposing of the application I.A.No.1 of 2022, the trial Court reserved the right of the petitioner / first defendant to participate in the final decree proceedings and raise his objection with regard to the Advocate Commissioner's report. In such circumstances, I do not find any prejudice to the petitioner warranting interference with the impugned order, as the right of the petitioner is very well protected. Hence, C.R.P.No.7216 of 2022 is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18-11-2026

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

EP
To:-
III Additional District Court,
Salem.

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S.SOUNTHAR, J.

EP

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