Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 6842 of 2026 and

CMP No.29406 of 2026

CNR: {HCMA012442952026}

Sureshkumar, S/o. Late. Swaminathan,
D.No.1/157, Malai Kovil Road,
Chinnaputhur, Agrakavaputhur Post,
Mangalam, Tiruppur Dt 641 663.

..Petitioner(s)

Vs

Sathish Kumar, S/o. Late. Shanmugasundaram,
No.22C, Palakkad Road,
Nallur Village, Zamin Muthur Post,
Pollachi Taluk.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of CPC to set aside the Fair and Decretal Order passed in I.A No.1/2025 in O.S No.274/2003 on the file of the Principal District Munsif, Pollachi dated 29.06.2026 and allow the CRP.

For Petitioner(s): Mr. S.Kadarkarai

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ORDER

This Civil Revision Petition has been filed challenging the order passed by the Trial Court, dismissing application filed by the petitioner seeking to condone the delay of 5585 days in filing a petition to set aside the exparte decree passed against him.

2. The respondent herein/plaintiff filed a suit for injunction in O.S.No.274 of 2003 against the petititioner and his grand mother. In the said suit, the petitioner was arrayed as 2nd defendant. Due to non appearance of the petitioner as well as the other defendant, an exparte decree was passed against them on 24.02.2010. Thereafter, the petitioner filed a petition to set aside the exparte decree along with a petition to condone the delay of 5585 days in filing set aside petition. These applications were filed on 02.08.2025. The Trial Court dismissed the condone delay petition and aggrieved by the same, the petitioner has come before this court.

3. The learned counsel for the petitioner would submit that the petitioner's father was admitted in KMCH Hospital, Coimbatore in the year 2000 and underwent treatment for several years and he died on 19.12.2012. Due to the shock caused by his father's death, the petitioner could not attend his

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day-to-day activities and hence there was a delay in filing a petition to set aside the exparte decree passed against him. It is further stated by the learned counsel for the petitioner that the respondent claims rights over the suit property under the settlement deed executed by petitioner's mother Subbathal, dated 17.03.2003. However, subsequently, the settlement deed was cancelled on 27.03.2003 by Subbathal and she also executed a sale deed in favour of the petitioner on the very same day. In view of the same, an opportunity shall be given to the petitioner to contest the suit on merits.

4. It is seen from the typed set of papers that the respondent filed a suit for injunction and exparte decree was passed against the defendants, including the petitioner/2nd defendant 24.02.2010. Instant application to set aside the exparte decree along with an application to condone the delay were filed only in the year 2023. The reasons given by the petitioner as if his father was hospitalised and he shifted to Tiruppur near to KMCH Hospital etc. are not sufficient to explain the inordinate delay of 5585 days. Though in the affidavit, the petitioner referred about the medical grounds, no document has been marked before the Trial Court. Further, the petitioner has not entered the box to give evidence, explaining the delay, in support of the averments made in the affidavit. The reason given by the petitioner regarding illness of his father is not sufficient to condone the inordinate delay of 5585 days.

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5. Even on merits, the petitioner claimed that the settlement deed executed by Subbathal in favour of the respondent was subsequently cancelled. It is settled law that the unilateral cancellation of a settlement is invalid and the same has to be ignored. It is also stated that by the petitioner that the settlement deed executed in favour of the respondent was obtained by undue influence. Till date, the petitioner has not taken any steps to challenge the settlement deed executed by Subbathal in favour of the respondent. In such circumstances, the challenge to the settlement deed executed in favour of the respondent is hopelessly barred by limitation. Therefore, the submissions made by the learned counsel for the petitioner on the merits of the matter are also not appealable to this court. I do not find any reason to interfere with the impugned order passed by the Trial Court.

6. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

29-10-2026

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

The Principal District Munsif,
Pollachi.

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S.SOUNTHAR, J.

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