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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 6975 of 2026
C.M.P.No.29980 of 2026

CNR: {HCMA012496572026}

Case QR

1. Nataraj
2. Solai @ Govindharaj
3. Pachamuthu

..Petitioner(s)

Vs

Selvi

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Section 115 of Civil Procedure Code, pleased to set aside the impugned fair and decreetal order dated 01.08.2026 in I.A.No.5 of 2023 in O.S.No.248 of 2017 on the file of the learned Subordinate Judge's Court at Palacode.

For Petitioner(s): M/s.L.Lakshmi Swaroopa
for M/s. S.Subramanian

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioners seeking to condone the delay of 1983 days in filing petition to set aside the ex-parte decree.

2.The respondent herein filed a suit for partition against the petitioners in the year 2017. The petitioners failed to file written statement nearly for one year and hence ex-parte decree came to be passed on 12.01.2018. Thereafter, petitioners filed an application to set aside the ex-parte decree along with

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petition to condone the delay of 1983 days on 19.07.2023. The said condone delay petition was dismissed by the trial Court. Aggrieved by the same, the petitioners have come before this Court.

3.The learned counsel for the petitioners by taking this Court to the affidavit filed in support of the condone delay petition would submit at the relevant point of time the petitioners were out of their native place in connection with their cooly work in Bangalore. Therefore, they could not contact their counsel. It is also stated the petitioners contacted the counsel only recently and immediately petitions have been filed to set aside the ex-parte decree and to condone the delay of 1983 days on 19.07.2023.

4.It is seen from the typed set of papers the suit was filed in the year 2017. The petitioners failed to file written statement nearly for one year. Ultimately, ex-parte decree was passed on 12.01.2018. There is more than five years delay in filing petition to set aside the ex-parte decree. The reason given by the petitioners that they were out of their native place in connection with their work cannot be a ground to explain the delay of five years. As a litigant petitioners are expected to contact their trial Court counsel frequently.

5.In the case on hand even as per the own submission of the petitioners they failed to contact the counsel from 2018 to 2023. It is also seen that

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petitioners were served with notice in the final decree proceedings initiated by the respondent herein / plaintiff inspite of that they failed to enter appearance. The trial Court appointed an Advocate Commissioner in the final decree proceedings. The Advocate Commissioner visited the property and filed a report suggesting a mode of division. When the trial Court was about to pass a final decree based on the report filed by the Advocate Commissioner, petitioners have come up with this application seeking to set aside the ex-parte decree. However, the petitioners have not given any valid reason for their failure to file an application atleast upon the service of notice in the final decree proceedings. Therefore, the trial Court rightly dismissed the condone delay petition. I do not see any illegality or irregularity in the order passed by the trial Court. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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

EP
To:-
The Subordinate Judge
Palacode.

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S.SOUNTHAR, J.

EP

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