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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 107 of 2026

AND

CRP NO. 6471 OF 2025

1. G. Chandrasekaran
S/o. Govindan,
Pallakadu, Mallikundam Village,
Mettur Taluk,
Salem District.
2. G. Nagarajan
S/o. Govindan,
Pallakadu, Mallikundam Village,
Mettur Taluk,
Salem District.

..Petitioner(s)

Vs

Gururaman
S/O. Eswaran,
D.No.48, Coolie Line,
Mettur Taluk,
Salem District.

..Respondent(s)

CRP No. 6471 of 2025

1. G.Chandrasekaran
S/o.Govindan,
Pallkadu,Malikundam Vilage,
Mettur Taluk Salem District
2. G. Nagarajan
S/o. Govindan, Pallakadu, Mallikundam
Village, Mettur Taluk, Salem District.

..Petitioner(s)

Vs

Gururaman
S/o.Eswaran,



D.No.48, Cooli Line
Mettur taluk,
Salem district

..Respondent(s)

CRP No. 107 of 2026

To set aside the order dt. 15.10.2024 made in I.A. No. 1 of 2023 in OS No. 262 of 2014 on the file of the Learned Subordinate Judge, Mettur by allowing this CRP and consequently restore the Petitioners application to condone the delay and permit them to contest the suit on merits and pass such further or other orders as this Honble Court.

CRP No. 6471 of 2025

To set aside the order dt. 15.10.2024 made in I.A. No. 2 of 2023 in OS No. 262 of 2014 on the file of the Learned Subordinate Judge, Mettur.

CRP No. 107 of 2026

For Petitioner(s): G.Kesavan
 V. Vadivalagia Nambi
 S. Ragu
 V. Sabari Vasan

For Respondent(s): M/s.T.Sai Krishnan
 I.Inian
 M.Velan
 R.K.Rithani For Sole Respondent

Common Order

1. CRP.No.107/2026 is filed challenging the order dated 15.10.2024, in IA.No.1/2023, rejecting the petitioners' application to condone the delay of 2833 days in seeking to set aside the exparte decree, that was passed on 31.08.2025.



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2. CRP.No.6471/2025 is filed challenging the order dated 15.10.2024, in IA.No.2/2023, rejecting the petition filed by the petitioners to set aside the exparte decree, dated 31.08.2015.
3. The petitioners are defendants in the suit. The plaintiff filed the suit for specific performance, to execute the Sale Deed in favour of the plaintiff in pursuance to the registered Sale Agreement dated 09.01.2013 executed by the defendants and also for injunction, restraining the defendants from alienating or encumbering the suit property to 3rd parties.
4. Though the defendants entered appearance in the suit through a counsel, no written statement was filed and therefore, the defendants were set exparte on 21.04.2012, and an exparte decree was passed on 31.08.2015. Pursuant to the exparte decree, the plaintiff deposited sale consideration of Rs.1,00,000/-, before the Court and had the Sale Deed executed in his favour through process of the Court in Execution Proceedings. Long after the sale was executed in favour of the plaintiff through Court, the defendants filed an application to set aside the exparte decree along with an application to condone the delay of 2833 days. The Trial Court, finding absolutely no justifiable reasons for condoning the inordinate delay of 2833 days, dismissed the application. Aggrieved by the order of the Trial Court, the petitioners filed the above Civil Revision Petition, for the aforesaid relief.



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5. The learned counsel for the petitioners submitted that this Court should adopt a liberal approach and a justice oriented approach, so as to give an opportunity to the petitioners to contest the suit on merits. The learned counsel further submitted that in order to render substantial justice, this Court should consider condoning the delay on such terms as this Court deems fit.
6. Mr.T.Saikrishnan, learned counsel accepted notice on behalf of the respondent and submitted that the unexplained, inordinate delay of 2833 days, cannot be condoned and that, this Court will not stretch the liberal approach to an extent where the purport of the Limitation Act is frustrated. The learned counsel therefore submitted that the Revision Petitions deserve to be dismissed.
7. Heard both sides and perused the materials placed on record.
8. Before entering into the controversy, this Court deems it appropriate to refer to certain facts as borne by the records.
9. The petitioners entered into a Sale Agreement on 09.01.2013 with the respondent to sell the suit schedule properties for a sale consideration of Rs.3 lakhs and on the same day, the petitioners received an advance of Rs.2 lakhs from the respondent. A registered Sale Agreement was executed on 09.01.2013. since the petitioners failed to execute the Sale Deed in favour of the respondent, the respondent filed a suit in OS.No.262/2014, on 03.07.2014. On receipt of summons from the



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Court, the petitioners entered appearance in the suit through their counsel. Thereafter, even though the petitioners were given sufficient time to file their written statements, they failed to file the written statement and so, they were set exparte on 21.04.2015. After a lapse of nearly four months, the suit was decreed exparte on 31.08.2015, and in pursuance of the exparte decree, the respondent deposited the balance sale consideration of Rs.1 lakh with the Court and had the Sale Deed executed in his favour through the process of Court, on 25.04.2018 in the Execution Proceedings. The sale was registered on 24.07.2018. Pursuant to the sale in his favour, the respondent/plaintiff took delivery of the property through a Panchayat Muchlika on 12.02.2018. Later, the respondent sold the suit properties to one Malathi, under a registered Sale Deed dated 22.10.2020. It was long after the aforesaid transactions, that the petitioners filed the petition to set aside the exparte decree, along with a petition under Section 5 of the Limitation Act, for condoning the delay of 2833 days in seeking to set aside the exparte decree. The Trial Court, finding absolutely no merits in the both the petitions, dismissed the same.

10. The petitioners in their affidavit, stated that they entrusted the case file to their counsel and were under the impression that the counsel would conduct the case properly. The petitioners further stated that they received a notice in REP.No.7/2016 in March 2016, and thereafter, they again approached the counsel and entrusted the EP notice and summons



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to him for contesting the Execution Proceedings. The petitioners stated that they believed that their counsel would defend the case in a proper manner, but to their shock, on 20.05.2023, they came to know of the sale in favour of one Malathi, when she along with her henchmen and some unknown rowdy elements, trespassed into the suit property and tried to cut down the trees. The petitioners further stated that when they made enquiries with the previous counsel, they were informed of the exparte decree in the EP proceedings and so they changed the counsel.

11. From the narration of facts made above, it is seen that the suit was decreed exparte as early as in the year 2015 and even the Execution Proceedings ended with the execution of Sale Deed, in favour of the respondent on 25.04.2018. Thereafter, possession was taken by the respondent on 12.12.2018 and subsequently, he also sold the property to one Malathi on 22.10.2020. It is only after an inordinate delay of 2833 days that the petitioners filed the petition to set aside the exparte decree along with a condone delay petition.

12. The averments made in the affidavit filed in support of the condone delay petition are stated above and from the said averments, it is clear that no substantial or justifiable cause is shown by the petitioners to condone the inordinate delay of 2833 days. The averments are vague and insufficient to condone the exorbitant delay of 2833 days. The only reason that can be discerned from the averments in the affidavit is that



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the petitioners were under the impression that their counsel would conduct the case properly. From the averments, it is clear that the petitioners received the notice/summons in REP.No.7/2016, in March 2016, itself and therefore, it is unbelievable that the petitioners would not have been informed of the *exparte* decree then. The failure of the petitioners to assign any explanation for the delay even after receiving the notice in REP.No.7/2026 in March 2016, shows that the petitioners have been grossly negligent in prosecuting the case and there is total lack of *bona fides* in the present petition. Even the Trial Court found that the petitioners' version that they were not informed of the *exparte* decree by the previous counsel when the summons in REP.No.7/2016 was entrusted to him for contesting the proceedings, was unbelievable.

13. The records reveal that by passage of time, third party interest have crept in, since the respondent sold the property in 2020 itself. The petitioners, by their deliberate inaction, have allowed third party interest to intervene and therefore, for their own lack of diligence and total inertia in prosecuting the case, the respondent cannot be penalised nor can the substantial right accrued to him, be deined.

14. The Hon'ble Supreme Court has pointed out that the law of limitation is founded on public policy and enshrined in the legal maxim "*interest reipublicae ut sit finis litium*", i.e., it is for the general welfare that a period of limitation be put to litigation. The Hon'ble Supreme Court also



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held that the statutes of limitation and prescription are statutes of peace and repose as they envisage that a right not exercised or the remedy not availed for a long time, ceases to exist. One of the ways for putting an end to the litigation is by barring the remedy rather than the right with the passage of time.

15. This Court finds that a substantive right has accrued in favour of the decree holder and that, such right ought not to be lightly disturbed. More so, when the decree holder, the respondent has treated the decree to be binding, with the lapse of time and proceeded on the assumption that the decree has attained finality.

16. The Hon'ble Supreme Court in the case of ***Pathapati Subba Reddy [Died] by LRs Vs. Special Deputy Collector, LA [2024 [12] SCC 336]***, enunciated the principles governing the law of limitation. The Apex Court, in paragraph No28 of the judgment, held as follows:-

“28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

28.1. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

28.2. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;



28.3. The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

28.4. In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

28.5. Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

28.7. Merits of the case are not required to be considered in condoning the delay; and

28.8. Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

17. Under the facts and circumstances of the case and in view of the aforesaid dictum of the Hon’ble Supreme Court, this Court is of the view



that the petitioners have miserably failed to establish sufficient cause for condoning the inordinate delay of 2833 days. The explanation offered by the petitioners clearly reflects lack of diligence and *bona fides*. In such circumstances, this Court is not inclined to condone the delay even upon imposition of costs.

18. The Hon'ble Supreme Court in the case of ***Basawaraj and Another Vs. Special Land Acquisition Officer*** reported in **2013 [14] SCC 81**, in paragraph 15, has held as follows:-

“15.....No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay...”

19. This Court is cognizant of the fact that the law of limitation may harshly affects the petitioners. However, when the statute prescribes limitation, it should be applied with all its rigour. As pointed out by the Hon'ble Supreme Court, in ***Basawaraj's case [referred to above]***, held that *“The court has no power to extend the period of limitation on equitable grounds. ‘A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.’ The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal*



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maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”

20. For all the aforesaid reasons this Court finds that the Civil Revision Petition in CRP.No.107/2026 lacks merit and hence, the same is **dismissed**.

21. In view of the order passed in CRP.No.107/2026, dismissing the petition for condoning the delay of 2833 days in filing the petition seeking to set aside the exparte decree dated 31.08.2015, the Civil Revision Petition in CRP.No.6471/2025 is also **dismissed**. No costs.

03-03-2026

Index: Yes

Internet: Yes

Speaking/Non-speaking order

Neutral Citation: Yes

AP



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Salem District.

CRP No. 6471 of 2025

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CRP Nos. 107 of 2026 & 6471 of 2



N.MALA J.

AP

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