



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 11.02.2026

Pronounced on: 20.02.2026

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.208 & 213 of 2026
and CMP. Nos.859 & 885 of 2026**

1.V.Saraswathy
2.V.Mathanagopal
3.V.Umadevi
4.M.Priyadharshini

Petitioners in both CRPs

Vs

1.P.Sudha
2.K.Hariprasadh
3.J.Kannan

Respondents in both CRPs

COMMON PRAYER: This Civil Revision Petition is filed under Section 115 of the CPC, to set aside the fair and decreetal order dated 28.08.2025 made in I.A. No.2 of 2024 & I.A. No. 4 of 2024 in O.S. No.78 of 2020 on the file of IV Additional District Judge, Coimbatore.

For Petitioners : Mr.T.Mohan,
Senior Counsel for
Mr.W.Camyles Gandhi
in both CRPs

For Respondents : Mr.Abdul Saleem,
Senior Counsel for
Mr.M.VijayaMehanath
in both CRPs



COMMON ORDER

The plaintiffs in O.S. No.78 of 2025 on the file of the IV Additional District Judge, Coimbatore are the revision petitioners.

2. I have heard Mr.T.Mohan, learned Senior Counsel for Mr.W.Camyles Gandhi appearing for the petitioners and Mr.Abdul Saleem, for Mr.Vijaya Mehanath, learned counsel for the respondents.

3. Mr.T.Mohan, learned Senior Counsel for the revision petitioners would state that the Trial Court has erroneously condoned the delay of 67 days in filing the Application to set aside the exparte decree. The respondents had not come to Court with clean hands and in fact, they had set up a false case, as if they did not have any knowledge of the filing of the suit and that they were all along residing only at Coimbatore for the last seven years and that they were not residing at the address mentioned viz., the Kollampalayam, Erode address. Mr.T.Mohan, learned Senior Counsel would further state that the length of delay is immaterial and the *sine quo non* is only showing of sufficient cause and if the applicants seeking condonation of delay do not show sufficient cause, then whatever be the length of delay, the applicants are not entitled to condonation of delay.



4. In this regard, the learned Senior Counsel has relied on the decision of the Hon'ble Supreme Court viz., (i) *Basant Singh and Another Vs. Roman Catholic Mission*, reported in (2002) 7 SCC 531 and (ii) *Parimal Vs. Veena Alias Bharti*, reported in (2011) 3 SCC 545.

5. Per contra, Mr. Abdul Saleem, learned Senior Counsel appearing for the respondents would firstly state that the delay is not inordinate and it is only 67 days. Further, the petitioners have given acceptable documentary evidence to establish that they were residents of Coimbatore only, at the time of the alleged service of summons and therefore, the Trial Court has rightly exercised discretion in their favour by condoning the delay. He would further state that valuable rights of the respondents are at stake and the Trial Court has thought it fit to give a fair opportunity to the respondents to contest the suit on merits. He would therefore pray for dismissal of the revision petition.

6. I have carefully considered the submissions advanced by the learned Senior Counsel on either side.

7. It is the contention of the respondents in the condone delay application that the petitioners as plaintiffs, had given their Kollampalayam, Erode address to be the registered address of the respondents/defendants. However, it is their



firm case that for the last seven years, they were residents of Coimbatore and that in this regard, they have filed sufficient documentary evidence as well. The Trial Court has found favour with the reasons assigned by the respondents and the documents filed in support of the application and proceeded to condone the delay and also set aside the exparte decree.

8. However, I am unable to affirm the findings of the Trial Court for more than one reason. Firstly, even though the respondents chose to exhibit as many as 12 documents in the condone delay application to support their case that they were residing in Coimbatore, the Trial Court has lost sight of the fact that equally, the respondents on their side, have exhibited 19 documents to show that the petitioners/respondents have come to Court with a false case. There is not even a whisper, leave alone any acceptable discussion with regard to the documents filed on behalf of the revision petitioner. Secondly, prior to filing of the suit, there has been a pre-suit notice that was issued by the petitioners. The said notice was addressed only to the Kollampalayam, Erode address. The said notice has been admittedly replied to, through a lawyer, the factum of which is not denied by the respondents. Thirdly, the respondents, after issuing a reply notice, have also filed a caveat. Even in the caveat, the same address viz., Kollampalayam address is mentioned. The learned Counsel who was representing the respondents as the Counsel for the caveators has been served



with suit papers and he has also entered appearance in the suit. In this backdrop, even though, the delay may appear to be very minimum and not inordinate on the face, on an over all consideration of facts and circumstances, I find that the petitioners have miserably failed to show sufficient cause for the delay of 67 days.

9. The Hon'ble Supreme Court has time and again reiterated that the length of delay would not be a relevant factor and even if it is running to 100s, 1000s of days, the delay can be condoned, subject to sufficient cause being shown. Equally, the Hon'ble Supreme Court has also held that when the delay is not satisfactorily explained as mandated under Section 5 of the Limitation Act, then irrespective of period of delay, the petitioner is not entitled to the discretionary order of condonation of delay.

10. On receipt of the pre-suit notice, the respondents had not stated that they are not residents of Kollampalayam and that they have shifted to Coimbatore. If really, they have shifted to Coimbatore, they ought to have mentioned their Coimbatore address in the reply notice or atleast informed the lawyer who issued the notice to whom the reply was addressed then, that the address mentioned was no longer their address and that they have shifted to Coimbatore. This has not been done. The reply has been given as if the



respondents continued to reside in Kollampalayam, Erode. Not stopping with that, the respondents have also filed a caveat, where also the very same Kollampalayam, Erode address has been given. Rightly, the petitioners have served the suit papers on the Counsel who has filed the caveat, on behalf of the respondents. The object of a caveat is to put the caveator on notice before any interim orders are obtained by the expecting plaintiff or the petitioner. The learned counsel for the caveator has also appeared before the Court and affirmed the fact that he has filed caveat on behalf of the respondents. However, strangely he has represented to the Court that notice may be sent to the parties. The Court ought not to have obliged to such request of the Counsel who was legitimately and validly representing the respondents on the said date, by entering caveat.

11. Be that as it may, the Court has accepted the representation of learned counsel for the caveator and thereafter, ordered notice to the respondents. Even the Counsel has not informed the Court that the defendant's address mentioned in the plaint is not correct and that notices and summons will have to be sent to Coimbatore address. Therefore, I find that the respondents have invited upon themselves the exparte order/decreed and now they cannot shed crocodile tears and contend that they have shifted to Coimbatore more than seven years back and there has been no notice on them and that the exparte decree has been



passed behind their back. The explanation offered by the learned Senior Counsel that the pre-suit notice was received by neighbour and handed over to the respondents, for them to reply is totally unacceptable and can never be countenanced. No such averments are found in the reply notice in the first place. Therefore, I am unable to see how such an explanation can be accepted to in support of sufficient cause being shown for the delay.

12. The Hon'ble Supreme Court in *Basant Singh's* case (referred herein supra), held that when summons are sent to the correct and given address then, it would tantamount to proper service. In *Parimal's* case (referred herein supra), the Hon'ble Supreme Court held that while deciding an Application under Section 5 and interpreting sufficient cause, the test to be applied is whether the defendants honestly and sincerely, intended to remain present when the suit was called on for hearing and did his best to do so, and it is such cause for which, defendants would not be blamed for his absence would be falling under sufficient cause.

13. For all the discussions and reasons that have already made herein above, I do not find that the respondents have been honest and bonafide in their conduct, warranting discretion to be exercised in their favour. Unfortunately, as already discussed herein above, the Trial Court without even considering the



valid objections and also material documents filed on the side of the revision petitioners, has proceeded to condone the delay merely on the ground that the delay is only 67 days. In view of the above, I am inclined to set aside the orders passed by the Trial Court in I.A. Nos.2 of 2024 and 4 of 2024 in O.S. No.78 of 2020 dated 28.08.2025 on the file of the IV Additional District Judge, Coimbatore. Accordingly, these Civil Revision Petitions are allowed. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

20.02.2026

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Neutral Citation Case : Yes/No

Internet: Yes/No

Index : Yes/No

To:

The IV Additional District Judge, Coimbatore.



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P.B.BALAJI, J.,

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**Pre-delivery order in
CRP. Nos.208 & 213 of 2026
and CMP. Nos.859 & 885 of 2026**

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