



WEB COPY

CRP No.5952 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 5952 of 2025

and

CMP No.29440 of 2025

Thiruppathal
W/o.K.N.Chidambaram,
Kulathottam, Thittuparai,
Nathakattu Valsu Post, Kangeyam Taluk,
Tiruppur District.

..Petitioner(s)

Vs

K.N.Chidambaram,
S/o.Late Nallasamy Gounder
Kommakovil, Vadamugam Vellore Village,
Perundurai Taluk, Erode District.

..Respondent(s)

Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, pleaded to set aside the order dated 22.09.2025 in I.A.No.2 of 2024 in unnumbered AS in CFR No.2692 of 2024 on the file of the Hon'ble Principal District Court Erode by allowing this Revision.

For Petitioner(s): Mr.K.J.Parthasarathy

For Respondent(s): Mr.M.Guruprasad

ORDER

- (1) This Civil Revision Petition is filed against the order dated 22.09.2025, passed in I.A.No.2 of 2024 in unnumbered AS in CFR No.2692 of 2024 on



the file of the Principal District Court, Erode rejecting the petitioners petition to condone the delay of 786 days in filing the appeal.

- (2) The petitioner, who is a third party to the suit in OS.No.104/2016, has filed the above Civil Revision Petition.
- (3) The petitioner is the mother of the deceased C.Sathish Kumar and the wife of the respondent herein. The respondent filed the suit in OS.No.104/2016, against the petitioner's son, for the relief of partition of his 3/4th share in the suit property and for other reliefs. The said suit was decreed exparte on 28.03.2017 against the petitioner's deceased son. According to the petitioner, after her son's demise on 01.12.2022, she applied for transfer of patta and only then, she came to know that in the suit in OS.No.104/2016, an exparte decree was passed on 28.03.2017, declaring the respondent's 3/4th share in the suit property. The petitioner states that she also came to know that the respondent obtained a final decree in IA.No.1/2019, on 10.01.2022. The petitioner, after coming to know of the aforesaid facts, immediately applied for copies of the preliminary and final decrees and obtained the same. The petitioner, aggrieved by the inequitable division of the property on the basis of the fraudulent decree obtained by the respondent, filed a petition to condone the delay of 786 days in preferring the appeal against the final decree in IA.No.1/2019. However, the Trial Court dismissed the petition on 22.09.2025. The petitioner, therefore filed the above Civil Revision Petition for the aforesaid relief.



(4) The learned counsel for the petitioner submitted that the Trial Court failed to note that the respondent deliberately sent the notice to the wrong address.

The learned counsel further submitted that the petitioner and the respondent separated 15 years ago and thereafter, she was living separately with her deceased son in her maternal home. The learned counsel submitted that the respondent also played fraud on the Court by forging the signature of his deceased son in the Vakalat, projecting as if he had entered appearance in the suit proceedings. The learned counsel further submitted that the Lower Court failed to note that the respondent played fraud on the Court, by not only issuing notice to a wrong address, but also, forging the signature of the petitioner's son. The learned counsel for the petitioner therefore prayed that the impugned order be set aside.

(5) Heard the submissions of the learned counsels for both sides and also perused the materials placed on record.

(6) The facts are undisputed. Suffice it to state that the petitioner and the respondent are wife and husband and the respondent filed a suit for partition of his 3/4th share against their deceased son, showing his address as "*Kommakovil Vadamugam Vellode Village, Perundurai Taluk, Erode District*". It is the case of the petitioner that she separated from the respondent 15 years ago and thereafter was residing with her son at "*Kolathottam Thittuparai, Nall Road, Nathakkattuvalsu, Kangeyam, Tiruppur District*". According to the petitioner, the respondent had



deliberately issued notice to the wrong address and also forged her son's signature to project as if he had participated in the suit proceedings. The Trial Court rejected the petitioner's petition on the ground that the petitioner failed to produce any material to show that she was residing with her son at *"Kolathottam Thittuparai, Nall Road, Nathakkattuvalu, Kangeyam, Tiruppur District"*. It is trite that the burden is on the respondent to prove to the satisfaction of the Court that the notice was sent to the correct address. The Trial Court, in my view, erred in casting the burden on the petitioner to prove the negative, namely, that she was not residing in the address given by the respondent. The petitioner, in support of her contention that she along with her son, were residing at *"Kolathottam Thittuparai, Nall Road, Nathakkattuvalu, Kangeyam, Tiruppur District"*, filed the Death Certificate of her son. In the view of this Court, the said document, though not filed before the Trial Court, is a vital document.

- (7) The petitioner also disputed her son's signature in the vakalat filed in the suit and she has also produced the PAN Card, to show that the signature in the Vakalat, was not that of her son's. Since this Court is inclined to interfere with the order passed by the Trial Court dated 22.09.2025, made in IA.No.1/2019, this Court is of the view that the said documents can be examined by the Trial Court and therefore, this Court refrains from considering the documents on merits.



- (8) Accordingly, the order passed in I.A.No.2 of 2024 in Unnumbered AS in CFR No.2692 of 2024, dated 22.09.2025 is set aside and the matter is remanded to the Trial Court for fresh consideration. The learned Trial Judge shall dispose of the unnumbered AS in CFR.No.2692/2024, within a period of eight (8) weeks from the date of receipt of a copy of this order.
- (9) The petitioner as well as the respondent are at liberty to file additional pleadings and documents in support of their respective contentions before the Trial Court .
- (10) The Civil Revision petition is accordingly, allowed. No costs. Consequently connected miscellaneous petition is closed.
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26-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

dsn/AP



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To

The Principal District Judge, Erode.

CRP No.5952 of



N.MALA J.

dsn/AP

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