



C.R.P.No.6257 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 07.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.6257 of 2025

and

CMP.No.30972 of 2025

K.Muthusamy

... Petitioner

Vs.

1. Vennila

2. Santha @ Santhamani

... Respondents

Prayer:- Civil Revision Petitions filed under Section 115 of the CPC., to set aside the fair and decretal order dated 01.11.2025 made in I.A.No.2 of 2024 in I.A.No.179 of 2018 in O.S.No.44 of 2016 on the file of the learned District Munsif Court, Kumarapalayam by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.P.Chandrasekaran

ORDER

This Civil Revision Petition has been filed challenging the fair and decretal order dated 01.11.2025 passed in I.A.No.2 of 2024 in I.A.No.179 of 2018 in O.S.No.44 of 2016 on the file of the learned District Munsif Court, Kumarapalayam.



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2. The second defendant in O.S.No.44 of 2016 is the revision petitioner herein. The second defendant had filed I.A.No.179 of 2018 seeking condonation of a delay of 186 days in filing the application to set aside the ex parte decree dated 17.08.2017. The Trial Court allowed the said application by order dated 18.02.2021, subject to payment of costs of Rs.500/- to the respondents on or before 24.02.2021. However, the petitioner failed to comply with the said conditional order and, as a consequence, I.A.No.179 of 2018 came to be dismissed. Thereafter, the petitioner filed I.A.No.2 of 2024 under Section 5 of the Limitation Act seeking condonation of a delay of 1343 days in restoring I.A.No.179 of 2018. The said application was dismissed by the Trial Court and, aggrieved by the same, the present Civil Revision Petition has been filed.

3. Heard the learned counsel appearing for both sides and perused the materials available on record.

4. Mr. N. Manoharan, learned counsel for the petitioner, would submit that the petitioner was not aware of the conditional order passed by the Trial Court imposing costs of Rs.500/-. Taking this Court through



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the affidavit filed in support of the application, the learned counsel would contend that sufficient reasons have been assigned for the petitioner's inability to comply with the conditional order. He would further submit that the cost imposed was only Rs.500/- and that, by no stretch of imagination, would the petitioner have deliberately slept over the matter, had he been informed about the said order. He would also submit that an opportunity may be afforded to the petitioner, particularly in view of the fact that the Trial Court had earlier exercised its discretion in favour of the petitioner by allowing I.A.No.179 of 2018, subject to payment of costs. The learned counsel for the petitioner would further contend that, in view of the Hon'ble Supreme Court of India exempting the Covid-19 pandemic period, the delay would not be 1,343 days, but would be for a lesser period.

5. Per contra, Mr.P. Chandrasekaran, learned counsel for the respondents, would submit that the Trial Court has passed a well-reasoned order and that the respondents have already taken possession of the property. At this belated stage, no indulgence can be shown to the petitioner, as it would result in serious prejudice to the respondents and



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amount to unsettling settled matters. He therefore prayed for dismissal of the Civil Revision Petition.

6. I have carefully considered the submissions advanced by the learned counsel on either side and perused the order passed by the Trial Court dismissing I.A.No.2 of 2024.

7. The suit in O.S.No.44 of 2016 was filed by the respondents for partition against one Kandasamy, who was arrayed as the first defendant, and the revision petitioner, who was arrayed as the second defendant. The revision petitioner was set ex parte for non-filing of the written statement within the stipulated time and an ex parte preliminary decree was passed on 17.08.2017. Thereafter, the revision petitioner filed I.A.No.179 of 2018 along with the written statement seeking condonation of a delay of 186 days. The said application was allowed by the Trial Court, directing the petitioner to pay costs of Rs.500/- to the respondents on or before 24.02.2021. However, the petitioner failed to comply with the said order and consequently, I.A.No.179 of 2018 was dismissed on 25.02.2021.



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8. After a lapse of more than three years, the petitioner filed

I.A.No.2 of 2024 contending that he came to know about the dismissal of I.A.No.179 of 2018 only on 25.10.2024. The learned counsel for the petitioner would submit that the petitioner is aged and had suffered from jaundice, for which he was taking native treatment. It was further submitted that though the petitioner had contacted his counsel, he was informed that due to the COVID-19 pandemic, the Courts were not functioning and that he would be informed about further developments. Subsequently, the petitioner changed his counsel and filed I.A.No.2 of 2024 seeking condonation of the delay of 1343 days.

9. The petitioner was fully aware of the fact that he had been set ex parte and had filed I.A.No.179 of 2018 seeking to set aside the ex parte decree. Despite an order being passed in his favour, subject to payment of costs of Rs.500/-, the petitioner remained indifferent and careless in pursuing the matter. The petitioner cannot shift the blame on to the erstwhile counsel and conveniently make allegations after engaging a new counsel. Such a practice has been deprecated not only by this Court but also by the Hon'ble Supreme Court.



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10. The petitioner, being a litigant, ought to have been vigilant in following up the matter, at least after filing the application to set aside the ex parte decree. The reasons assigned by the petitioner that he contacted his counsel over the phone and was informed that the Courts were not functioning due to the COVID-19 pandemic cannot be accepted. Even otherwise, the total silence and inaction on the part of the revision petitioner for more than three years remain unexplained. The reasons assigned are vague and highly unsatisfactory. The Trial Court has rightly found that the petitioner failed to show sufficient cause for condoning the delay of 1343 days. With regard to the length of delay, though Mr. Manoharan, learned counsel, contends that if the period of the Covid-19 pandemic is excluded as directed by the Hon'ble Supreme Court of India, the delay would be comparatively less, I am unable to see how this submission would assist the revision petitioner. The length of delay is immaterial; what is required to be shown is the sufficiency of the cause. Since I have already found that the petitioner has not made out sufficient cause, the fact that the delay of 1,343 days would be reduced is of no consequence.



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11. In view of the above, this Court finds no merit warranting interference with the well-considered order passed by the Trial Court. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
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To

The District Munsif Court, Kumarapalayam.



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P.B.BALAJI, J.

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