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C.R.P.No.2066 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2026

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.R.P.No.2066 of 2022

S.Senthil Kumari

.. Petitioner

Versus

1. K.Appavu (deceased)
2. Vijayalakshmi
3. Sivaprakasam
4. Sasikumar

.. Respondents

Sole respondent died. Respondent Nos.2 to 4 are brought on record as LR's of the deceased sole respondent viz., K.Appavu vide Court order, dated 08.12.2025 made in C.M.P.No.21993, 21996 and 21997 of 2024 in C.R.P.No.2066 of 2022

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.727 of 2014 in O.S.No.240 of 2009, dated 25.01.2016 on the file of the learned 1st Additional Subordinate Judge at Salem allowing the present Civil Revision Petition.

For Petitioner : Mr.V.Achuthanandan

For Respondents : R1- Died

: Mr.B.Sundarapandian, for RR-2 to 4



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ORDER

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This Civil Revision Petition is against the fair and decretal order, whereby, the Trial Court had dismissed the application to condone the delay of 320 days in filing an application to set aside the *ex parte* decree.

2. Mr.V.Achuthanandan, learned Counsel for the petitioner submits that the suit for Specific Performance had been initiated by the deceased sole respondent on the strength of an agreement of sale that he had entered with the first defendant from whom the petitioner had purchased the property. He submits that when the matter was listed for hearing on 01.09.2010, the petitioner was suffering from Jaundice and he was set *ex parte* on the said date and the suit was proceeded to be decided *ex parte* on 29.09.2010. Immediately, on knowing of the said fact, he had taken out an application to set aside the *ex parte* decree. Without considering the same, by only taking into consideration that pursuant to the Execution Petition filed in that regard, in which notice has also been served upon the petitioner, sale deed had been executed by the Court and therefore, there is no necessity to set aside the *ex parte* decree and hence, the delay need not be condoned. He submits that the execution of the sale deed pursuant to the execution proceedings cannot be put against the petitioner to reject his



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lawful claim to condone the delay in setting aside the *ex parte* decree and also to consider the application to set aside the *ex parte* decree. Hence, he seeks indulgence of this Court.

3. Countering his arguments, Mr.B.Sundarapandian, learned Counsel for the respondent Nos.2 to 4, who are the legal heirs of the deceased sole respondent, submits that the suit was decreed *ex parte* on 29.09.2010 and only after a year, the application to set aside the *ex parte* decree had been filed. He further submits that even in the Execution Petition, the petitioner had been set *ex parte* and he had not taken any steps to set aside such *ex parte* decree as he did not state any reason whatsoever as to why in spite of notice in the Execution Petition, he remained *ex parte*. He further submits that even though the application was filed on 14.09.2011, he had not taken any steps to get the aforesaid Interlocutory Application numbered and the same was numbered only in the year 2014. He further draws the attention of this Court that the order rejecting his application came to be passed in the month of January, 2016, but, the present Revision Petition is even though dated in the month June, 2016, has been filed before this Court in the month of August, 2016. This itself would show that the petitioner had not been diligent enough in prosecuting his claim. He submits that even



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though the Court below had held the application after the execution of sale deed had been completed, the decree could not be set aside, he submits that no explanation whatsoever had been given by the petitioner for the delay and he seeks dismissal of the Revision Petition.

4. I have considered the arguments made by the learned Counsel appearing on either side and perused the material records of the case.

5. It is an admitted case that the petitioner was set *ex parte* on 01.09.2010 and thereafter, the matter was decided *ex parte* on 29.09.2010. From the records, it can be seen that the petitioner had entered appearance and had also filed written statement and was aware of posting of the proceedings on 01.09.2010. A reading of the affidavit filed in support of his application to condone the delay do not disclose any step that he had taken to follow the proceedings on 01.09.2010 and there is no reason stated whatsoever as to why there was a delay of one year in filing an application to condone the delay. When no reasons have been attributed, this Court cannot come to the rescue of the petitioner. It had been categorically held that the reasons for delay ought to be explained and without explanation, the Court cannot casually condone the delay.



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WEB COPY 6. For the aforesaid reasons, I do not find any merits in the Civil Revision Petition and accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

02.04.2026

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The I Additional Sub-ordinate Judge,
Salem.



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K.KUMARESH BABU, J.,

grs

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