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C.M.P(MD)No.2018 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.04.2026

Pronounced on : 23.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.P(MD)No.2018 of 2026

in

REV.APLC(MD)SR.No.84112 of 2025

R.Jothivel,
S/o.Ramasamy Gounder,
Ganapathy Lane,
Alamara Street,
Karur Town and Taluk,
Karur District.

... Review Petitioner/Petitioner

Vs.

R.Palanisamy,
S/o.Ramasamy,
No.2/118, New No.2/107,
Karimpatti,
Karudayampalayam Village and Kaspera,
Aravakurichi Taluk,
Karur District.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to condone the delay of 68 days in filing the above main Review Application against the judgment and decree passed in A.S(MD)No.48 of 2023 on the file of this Court, dated 20.06.2025.

For Petitioner : Mr.M.Muthu Geethayan
for Mr.A.Chandrakumar
For Respondent:Mr.K.Suresh
for Mr.R.Gunasekaran



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ORDER

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This Civil Miscellaneous Petition is filed by the petitioner to condone the delay of 68 days in filing the Review Application.

2.The petitioner has stated reasons in the accompanying affidavit filed along with the Civil Miscellaneous Petition as follows:

The petitioner has filed an appeal suit in A.S(MD)No.48 of 2023 before this Court. This Court has dismissed the appeal on 20.06.2025 without considering the limitation point which was specifically raised by the petitioner in the grounds of appeal. Since the respondent filed execution proceedings in E.P.No.122 of 2024 and delivery proceedings in E.A.No.3 of 2025, the petitioner participated in those proceedings and obtained a certified copy of the order of the executing Court. Hence, there occurred a delay in filing the present review petition. Hence, the delay may be condoned.

3.The respondent filed a counter and objected to the petition and stated as follows:

The review jurisdiction can be invoked only on the limited grounds



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of error apparent on the face of the record, discovery of new evidence or any other sufficient reason of a similar nature, but none of which are made out by the petitioner in this petition. The petitioner admitted the execution of the sale deed before the Sub Registrar, handed over the original title deeds and permitted mutation of records in the respondent's name. The review application itself is not maintainable, hence, the petition is liable to be dismissed.

4.The learned counsel for the petitioner has submitted that the respondent filed a suit in O.S.No.21 of 2019 for a declaration of title and recovery of possession before the Principal District Court, Karur. The suit was decreed by the trial Court on 06.09.2022. The petitioner has preferred an appeal before this Court by filing grounds of appeal on various grounds, including a limitation point, particularly ground No.10. This Court has not considered the limitation ground. Because of the execution proceedings initiated by the respondent, a delay of 68 days occurred in filing the present review petition. Hence, the delay may be condoned.

5.Per contra, the learned counsel for the respondent has vehemently contended that the petitioner filed this petition only to harass the petitioner.



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The question of limitation was well appreciated by the trial Court and

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concluded in favour of the respondent. The petitioner has not raised any point regarding limitation before this Court. So, there is no apparent error found in the impugned judgment of this Court. Moreover, the respondent initiated execution proceedings in which the petitioner participated, and as per the order of the executing Court, the petitioner handed over possession of the suit property to the respondent. So, there is no question of limitation arising. Since the review application is not maintainable, the delay in filing the review need not be considered. The reason for the delay is also not convincing. Therefore, the reason stated by the petitioner is not acceptable and hence, the petition may be dismissed.

6. Heard both sides and perused the records in this Civil Miscellaneous Petition.

7. The petitioner mainly contended that this Court has not considered the issue of limitation, though the petitioner raised the same as a ground in the grounds of appeal, since the respondent filed an execution petition and an order passed by the executing Court, the delay occurred in filing the review application. The respondent's vehement argument is that the review sought



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by the petitioner is not apparent and hence, this petition need not be considered.

8. On hearing both sides, it is clear that both the petitioner and the respondent made rival claims over the suit property before the trial Court in O.S.No.21 of 2019. The trial Court has framed an additional issue as to whether the relief sought by the respondent is barred by limitation and answered on appreciation of evidence of both sides that the relief was not barred by limitation, as the respondent sought such relief on the basis of registration of the sale deed, dated 02.04.2014, by way of filing a suit on 27.02.2019 within 12 years. The learned respondent's counsel contended that the question of Article 58 of the Limitation Act was not at all raised in any of the grounds of appeal. The petitioner contends that he has raised a ground on the limitation point in grounds of appeal, particularly ground No.10, which reads as follows:

“10.The Trial Court ought to have appreciated that the plaintiff conveniently suppressed the following cause of actions, i.e., on 13.12.2014 when the defendant preferred a complaint, on 23.01.2015 when the plaintiff preferred a complaint, the date of filing of the



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written statement in O.S.No.31 of 2015 solely for the purpose of saving the present suit from the bar under the law of limitation for maintaining a suit for declaration of title.”

9.A mere reading of the above ground, it is clear that the petitioner has not raised any ground for questioning the limitation, much less the provisions of Article 58 of the Limitation Act. From perusal of the appeal grounds and the arguments put forth while hearing the appeal before this Court, the petitioner mainly focused on the reasons that the petitioner executed the sale deed, dated 02.04.2014, in question only as security for the loan obtained from the respondent and the same was discussed by this Court in the appeal judgment. As rightly submitted by the learned counsel, the trial Court has framed an issue on this point and answered the same in favour of the respondent in its judgment and the same was not agitated in appeal proceedings, therefore, there is no apparent error for reviewing the impugned judgment itself.

10.The Division Bench of Bombay High Court in the case of **Nivruti G.Ahire Vs. State of Maharashtra and Others** reported in **2007 SCC Online Bom 492**, in which, while dealing with an identical issue, the



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Division Bench of Bombay High Court has categorically held that if the main application for review is itself not maintainable in law, the question of condonation of delay in filing such an application would not arise at all. This was followed by the Bombay High Court in a recent judgment rendered in the case of **JSW Steel Coated Products & Anr. /v/ Amarlal**, reported in **2025 SCC Online Bom 2947**.

11.It is settled position that if the pleas urged in review petition are a reiteration of grounds urged during hearing of appeals, such review petitions may be held as not maintainable. The Division Bench of this Court in **Review Application No.137 of 2014 in Siril Bernard /v/ The Registrar of University of Madras** held in paragraph Nos.18, 23 and 24 as follows:

"18.It is to be relevantly pointed out that the power of Review is not an inherent power and must be conferred by law either expressly or by necessary implication. Moreover, in the decision of the Hon'ble Supreme Court in [Sardar Narender Singh V. IV Additional District Judge](#), AIR 1994 Supreme Court 1245, it is held that 'review petition filed by tenant after a gap of more than four years is not maintainable'. Also that, where all the pleas urged in review petition were



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reiteration of grounds urged during hearing of appeals, review petitions may held as not maintainable, as per decision of the Hon'ble Supreme Court in [Rajinder Singh V. State of Haryana and others](#), (2005) 12 Supreme Court Cases 322. That apart, where the Petitioner had not been acting bona fide, delay in filing review would not be condoned, as opined by this Court.

23.Besides the above, this Court aptly points out the decision of the Hon'ble Supreme Court in [Parsion Devi and others V. Sumitri Devi and others](#), (1997) 8 Supreme Court Cases 715, at special page 716, whereby and whereunder, it is observed and held as follows:

Under [Order 47, Rule 1 CPC](#) a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evidence and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under [Order 47, Rule 1 CPC](#). In exercise of the jurisdiction under [Order 47, Rule 1 CPC](#) it is not permissible for an erroneous decision to be reheard and corrected. There is a clear distinction between an erroneous decision and an error apparent on the face of the record.



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While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be an appeal in disguise.

24. On a careful consideration of the Applicant/Appellant's contentions and also this Court, taking note of the entire conspectus of the attendant facts and circumstances of the present case in an integral fashion, comes to an irresistible conclusion that the Applicant/ Appellant has not made out a case for 'Review' to the subjective satisfaction of this Court and further, this Court is of the considered view that there is no apparent error on the face of record in the Judgment dated 28.06.2012 in W.A.No.1796 of 2011. In reality, the Applicant/ Appellant has projected the present Review Application in the guise of an Appeal. Moreover, if the Applicant/Appellant is aggrieved by the Judgment dated 28.06.2012 in W.A.No.1796 of 2011 passed by this Court, which in his understanding has not been correctly decided as per Law or on facts or erroneously decided, such an argument/plea can be agitated/raised in an Appeal before the Superior Forum, but not in a Review Application, in the considered opinion of this Court. That apart, reappraisal of the entire



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facts or materials on record for finding the error would certainly, in the considered opinion of this Court, amount to exercise of 'Appellate Jurisdiction' which is certainly impermissible. Viewing it from any angle, the Review Application fails.

12.In this case on hand, from careful consideration of the learned counsel for the petitioner's contentions and taking note of the facts and circumstances of the present case, this Court concludes that the petitioner has not made out a case for 'Review' to the subjective satisfaction of this Court. This Court further holds that there is no apparent error on the face of the record in the Judgment, dated 20.06.2025, made in A.S(MD)No.48 of 2025. In fact, the petitioner has projected the present Review Application in the guise of an appeal. Moreover, if the petitioner is aggrieved by the impugned judgment of this Court, which, in their understanding, has not been correctly decided as per the law or on facts or has been erroneously decided, such a plea can be agitated or raised in an appeal before the Superior Forum, but not in a Review Application. That apart, re-appraisal of the alleged limitation aspect for finding an error would certainly amount to the exercise of 'Appellate Jurisdiction', which is certainly impermissible.



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WEB COPY 13. Moreover, from perusal of the contents of the affidavit filed by the petitioner, it is clear that the petitioner handed over the possession of the suit property as per the order of the executing Court. It is noteworthy to extract the relevant portion in paragraph No.5 as follows:

“5.I state that the learned Principal District Judge, Karur has passed the order dated 12.09.2025 in E.A.No.3/2025 in E.P.No.122/2024 and ordered delivery of the suit scheduled property and the same was effected and possession of dwelling house was taken from me.”

So, consequent to dismissal of the appeal by this Court vide impugned judgment, the petitioner himself agitated the execution proceedings and handed over the possession of the suit property. Hence, the main case reached finality. Therefore, as rightly submitted by the learned counsel for the respondent, the petitioner has filed this present petition with the intention to harass the respondent and the said submission cannot be brushed aside.

14. Though the delay for filing a review petition is to be considered, in view of the above settled position, while considering the delay for filing a review application, the maintainability of such review has also to be taken



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into account. In this case, viewing it from any angle, the Review Application itself is not maintainable. Therefore, this Court is of the considered view that the present application for condoning the delay in filing the review petition is liable to be dismissed.

15.In the result, this Civil Miscellaneous Petition is dismissed. Consequently, the Review Application is rejected at the SR stage itself. No costs.

23.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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in
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