



C.R.P.(MD)No.942 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.04.2026**

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)No.942 of 2026

and

C.M.P.(MD)No.4331 of 2026

Kondalsamy @ Kondalsamy Naicker

... Petitioner

vs.

Vanithamani

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to call for the records and set aside the order dated 16.11.2025 passed in I.A.No.2 of 2023 in O.S.No.163 of 2010 on the file of Principal District Munsif Court, Aruppukottai and allow this Civil Revision Petition.

For Petitioner : Mr.S.Selva Aditya

ORDER

The defendant in a suit for partition filed an application to condone the delay of 1885 days to set aside the ex-parte decree passed by the Court. The said application was dismissed. Hence, this revision.



C.R.P.(MD)No.942 of 2026

2. The reason given by the petitioner for making out a sufficient cause is that the Advocate who was conducting the matter did not inform him about the progress of the suit. In simple terms, he blames the counsel engaged by him for not having proceeded with the suit on his behalf. This did not cut ice with the trial court, hence this revision.

3. I heard Mr.S.Selva Aditya for Civil Revision Petitioner /defendant. I have gone through the affidavit filed in support of the application filed under Section 5 of the Limitation Act.

4. The ex-parte decree against the defendant was passed on 27.10.2017. The application filed to set aside the ex-parte preliminary decree was presented on 25.01.2023. Even if I were to assume that the Advocate did not inform the litigant about the progress of the case, there is absolutely no explanation in the affidavit as to what the petitioner had been doing from 2017 till 2023. The defendant was aware of the pendency of the suit. It is on the basis of his written statement, the matter went for trial. P.W.1 is none else than his sister. She had entered the witness box and had deposed in support of her case. The matter was listed for cross examination. Even if the Advocate had not informed the defendant in the year 2017, what the petitioner was doing for the next six years is delightfully absent in the affidavit.



C.R.P.(MD)No.942 of 2026

5. Unless and until sufficient cause is made out, the Court cannot condone the delay. Having filed an application to condone the delay by blaming the counsel, the least that is expected of the party is to enter the witness box and depose in support of his application. Even that opportunity was not availed of by the petitioner. The averment made in the affidavit has been stoutly denied by the respondent. Hence, the burden is on the defendant to substantiate the plea raised by him. Unfortunately, he has not done so. Six years delay cannot be explained, by merely, blaming the counsel. I find no sufficient cause.

6. This Civil Revision Petition stands **dismissed**. No costs. Consequently, the connected miscellaneous petition stands closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

06.04.2026

To:

The Principal District Munsif Court, Aruppukottai.



WEB COPY



C.R.P.(MD)No.942 of 2026

V.LAKSHMINARAYANAN, J.

Nsr

Order made in
C.R.P(MD)No.942 of 2026

06.04.2026