



CRP(MD). No.2890 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 07.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P(MD). No.2890 of 2025

and

C.M.P(MD) No.16589 of 2025

1.Karthika

2.Muralidharan

...Revision Petitioners/
Respondent/Respondent

Vs

1.P.Suresh

2.S.Kanimozhi

... Respondents/Petitioners/Petitioners

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 12.06.2025 passed in I.A.No.1 of 2024 in Unnumbered A.S. No.....of 2024 on the file of the Sub Court, Melur.

For Petitioner : Arun Kumaar

For R1 and R2 : Mr.K.Guruchev



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ORDER

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The present Civil Revision Petition is filed to set aside the fair and decretal order, dated 12.06.2025 passed in I.A.No.1 of 2024 in unnumbered A.S. No.____ of 2024 on the file of the Sub Court, Melur.

2. The revision petitioners are the respondents in I.A.No.1 of 2024 in the unnumbered Appeal Suit. An application was filed by the respondents seeking condonation of a delay of 5669 days in filing the appeal. The trial Court dismissed the said application vide order dated 12.06.2025. However, in the impugned order, the trial Court, taking into consideration the evidence of PW1 / first respondent herein that he was unaware of the pendency of the case as he was away from the State, and by relying upon the passport marked as Ex.P1 and UAE I.D. Cards marked as Exs.P2 and P3, condoned the delay of 5669 days on payment of costs of Rs.2,500/-. Challenging the same, the present Civil Revision Petition has been filed.



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3. The learned counsel appearing for the revision petitioners furnished the sequence of dates and events. According to the revision petitioners, summons were served on the respondents on 31.01.2008 and they were set ex parte in O.S.No.18 of 2008 on 12.03.2008. In the year 2011, the petitioners filed an execution petition in E.P.No.5 of 2011 and thereafter, on 31.04.2011, the respondents entered appearance through counsel in the said execution petition. On 23.06.2011, the respondent filed I.A.No.763 of 2011 seeking condonation of a delay of 1198 days in filing an application to set aside the exparte decree, which came to be dismissed for default on 08.08.2016.

4. Thereafter, the revision petitioners filed another execution petition in E.P.No.16 of 2020, wherein the respondent was again set ex parte on 08.10.2021. Subsequently, E.A.No.2 of 2022 was filed by the respondents to set aside the ex parte order passed in E.P.No.16 of 2020, which was dismissed on 22.11.2023. Thereafter, an application seeking condonation of delay of 5669 days was filed before the appellate Court, which was allowed on 18.10.2024 on payment of costs of Rs.2,500/-. Aggrieved by the same, the present Civil Revision Petition has been



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filed.

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5. The learned counsel for the revision petitioners submitted that having received summons on 31.01.2008, the respondents failed to appear before the Court and were fully aware of the legal proceedings pending against them. Not only were they set exparte in the suit on 12.03.2008, but also in E.P.No.5 of 2011, and the application filed in I.A.No.763 of 2011 was dismissed for non-prosecution on 08.08.2016. Another application filed by the respondent in E.A.No.2 of 2022 to set aside the exparte order in E.P.No.16 of 2020 was also dismissed on 22.11.2023.

6. Per contra, the learned counsel appearing for the respondents submitted that though summons were served on the respondents on 31.01.2008, the first respondent left abroad for employment on the very next day. He is frequently travelling to various countries for employment. The first appellate Court, taking into consideration the passport and other documents relating to his employment abroad, adopted a lenient view and condoned the delay of 5669 days by imposing costs of Rs.2,500/-.



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7. It is necessary and relevant to note that in the cross-examination, the first respondent admitted that during his employment at Singapore, his wife, who is the second defendant in the suit, was very much available in India.

8. The only point for consideration is whether the condonation of delay of 5669 days on payment of costs of Rs.2,500/- has been properly and satisfactorily explained by the first respondent.

9. When the first respondent had received summons on 31.01.2008 and was thereafter set exparte on 12.03.2008 and when execution petitions were filed, in which, he was again set exparte and when the second respondent, who is none other than the wife of the first respondent, was very much available in India and residing in their own house, no steps were taken to participate in the proceedings.

10. The reasons assigned by the first respondent are that he left abroad for employment immediately after receipt of summons, that



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summons in the year 2011 were not properly served, that the counsel engaged by him had expired, and that due to the COVID-19 pandemic he could not take steps to file applications. In support of his contention, the learned counsel for the respondent relied upon the order passed by the Hon'ble Supreme Court in *Chithra and another Vs. Sasikumar and others* in S.L.P No.14668 of 2025 dated 05.05.2025.

11. It is not in dispute that this Court, while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, has supervisory powers. However, the Hon'ble Supreme Court in *Chitravel and another v. Jothimani*, reported in (2024) 2 CTC 197 : (2024) 1 LW 7, has categorically held that when condonation of delay is sought, the party must furnish a proper and cogent explanation, preferably explaining the delay on a day-to-day basis, and that delay cannot be condoned in a routine manner in the absence of such explanation.

12. In view of the above, the judgment relied upon by the learned counsel for the revision respondent is not applicable to the facts of the present case. The order passed by the trial Court is liable to be set aside.



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13. Accordingly, the present Civil Revision Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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To

The Sub Court, Melur.



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N.SENTHILKUMAR, J.

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