



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 1768 of 2026
and CMP.No.8043 of 2026**

Kandasamy Gounder (Died)

1.Kaliammal

Amman Koil West, Karaikurichiyarkadu,
Ayipalayam, Athanur Village, Rasipuram Taluk,
Namakkal District.

2. Jagadeesan

Amman Koil West, Karaikurichiyarkadu,
Ayipalayam, Athanur Village, Rasipuram Taluk,
Namakkal District.

Petitioner(s)

Vs

1. Palani Goundar (Died)

Pappathi @ Ramayee (Died)

1.Rajathi

Karaikurichiyarkadu, Ayipalayam,
Athanur Village, Rasipuram Taluk,
Namakkal District.

Respondent(s)

PRAYER

Civil Revision Petition under Article 227 of Constitution of India, praying to set aside the Judgment and decree in IA No. 2 of 2025 in Un Number AS No. of 2025, order dated 05.03.2026 on the file of the Principal District Judge, Namakkal .



For Petitioner(s): MR. K. Karthikeyan

For Respondent(s): Mr.P.Mathivanan

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ORDER

Challenging the impugned order passed by the Appellate Judge in I.A.No.2 of 2025 in unnumbered A.S., the appellants/plaintiffs have preferred this revision.

2. Before the Appellate Court, the petitioners have filed application to condone the delay of 469 days in preferring the appeal suit as against the final decree passed in I.A.No.1 of 2020 in O.S.No.37 of 2008 on 02.12.2023. On hearing both sides, the Appellate Judge has held that the petitioners have not shown sufficient and acceptable reason for condoning the huge delay in filing the appeal. Observing so, the Appellate Judge dismissed the petition.

3. Aggrieved by the said dismissal order passed in I.A.No.2 of 2025 in filing the unnumbered A.S., dated 05.03.2026, the petitioners filed this revision.

4. Learned counsel for the petitioners would submit that 1st petitioner was suffered with diagnosis viral pneumonia and therefore he was not able to follow the proceedings. When the Execution Proceedings was initiated for executing the decree, he came to know about the final decree passed in I.A.No.1 of 2020



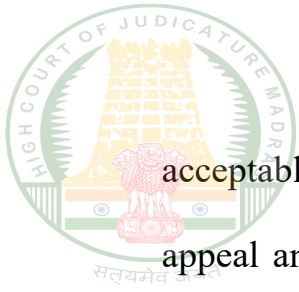
in O.S.No.37 of 2008. The learned counsel further submits that the 1st petitioner has already given instructions to file appeal, but the counsel has not filed appeal in time. Therefore, the delay of 469 occurred. Therefore, the prayer to condone the delay petition has been filed. The said petition was dismissed holding sufficient reasons not shown. The learned counsel submits that due to lack of communication, the petitioners and their counsel were not able to follow the proceedings. The learned counsel further submits that one more opportunity may be granted to the petitioners to raise their grounds and prosecute the appeal suit.

5. In reply, the learned counsel for the respondent submits that the original plaintiff filed suit for partition before Sub Court, Rasipuram. On considering the same, preliminary decree was passed. Against the preliminary decree, A.S.No.30 of 2010 was filed before the Principal District Judge, Namakkal and learned Appellate Judge dismissed the said appeal filed by the defendants on 15.02.2018. Thereafter, the defendants filed application in I.A.No.1 of 2020 in O.S.No.37 of 2008 for passing of final decree and for praying to appoint Advocate Commissioner to divide the suit properties as per the preliminary decree. Accordingly, Advocate Commissioner was appointed to visit the suit property whereas the revision petitioners/plaintiffs were present and as such both parties appeared at the time of measuring the suit property by



the Commissioner. The Commissioner has filed the report on 31.07.2023. He also suggested laying of pipeline and other exercise viz., for utilisation of the amenities found in the property. On considering the Advocate Commissioner report, the trial Judge has passed a final decree on 02.12.2023 in I.A.No.1 of 2020 in O.S.No.37 of 2008. Thereafter, to take delivery of the property, the respondents/defendants filed R.E.P.No.69 of 2024 in O.S.No.37 of 2008, wherein the defendants/respondents herein prayed to allot the share which was allotted to them as per the Commissioner plan. As such, at the time of executing the decree, the plaintiffs have come forward with the petition to condone the delay of 469 days in preferring the appeal in order to challenge the final decree proceedings.

6. It is relevant to note that in the final decree proceedings, the petitioners participated and were present when the Advocate Commissioner, pursuant to the order of the Court, measured the property. However, they did not file any objections either to the Commissioner's report or to the final decree proceedings. Consequently, the final decree in O.S.No.37 of 2008 was passed on 02.12.2023. It is further noted that most of the parties are senior citizens. In such circumstances, the plaintiffs filed I.A.No.2 of 2025 for condoning the delay of 469 days in filing the appeal as against the final decree passed in O.S.No.37 of 2008. The Appellate Judge has rightly held that no sufficient and



acceptable reasons adduced for condoning the delay of 469 days in filing the appeal and rightly dismissed the I.A.in unnumbered A.S. The impugned order does not warrant interference. Accordingly, this Civil Revision Petition is dismissed. The Executing Court is directed to dispose of the E.P.No. 69 of 2024 within twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

24-06-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

- 1.The Principal District Judge, Namakkal.
- 2.The Sub Judge, Rasipuram.
- 3.The Section Officer, V.R.Section, High Court, Madras.



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T.V.THAMILSELVI J.

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