

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 4069 of 2022

WEB COPY

1. Dhanammal (dead) 1.Kasiammal. -died
W/o.Shanmugam, So.Nambiandal Village,
Tiruvannamalai Taluk and District
2. Ezhumalai
W/o.Munusamy, So.Nambiandal Village,
Tiruvannamalai Taluk and District
3. Devaki
W/o.Subramani, So.Nambiandal Village,
Tiruvannamalai Taluk and District
4. Munusamy- died
S/o.Munusamy, So.Nambiandal Village,
Tiruvannamalai Taluk and District
5. Venkatesan
S/o.Munusamy, So.Nambiandal Village,
Tiruvannamalai Taluk and District
6. PACHAIYAMMAL, D/o.Late Shanmugam,
No.1/46, Santhu Village, So. Nambiandal
Village,
Tiruvannamalai Taluk and District
7. SIVASANKAR, S/o..Late Shanmugam,
No.1/46, Santhu Village, So. Nambiandal
Village,
Tiruvannamalai Taluk and District
8. SIVAKUMAR, s/o.Late Shanmugam,
No.1/46, Santhu Village, So. Nambiandal
Village,
Tiruvannamalai Taluk and District



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9. RANGANAYAKI, w/o.Late Munusamy,
1140/3, Vellakuttai, So.Nambiandal Village,
Tiruvannamalai Taluk and District
10. VAIDEESHWARI, D/o.Late Munusamy,
1140/3, Vellakuttai, So.Nambiandal Village,
Tiruvannamalai Taluk and District
11. MAHESWARI, D/o.Late Munusamy,
1140/3, Vellakuttai, So.Nambiandal Village,
Tiruvannamalai Taluk and District
12. SATHISH, S/o.Late Munusamy,
1140/3, Vellakuttai, So.Nambiandal Village,
Tiruvannamalai Taluk and District
1st Petitioner died
Petitioner 6 to 8 B/R as LR's of the deceased 1st
petitioner vide court order
dt 09/04/2026 made in CMP No. 31777, 31778,
31779/2025 KBJ
4th Petitioner died
Petitioners 9 to 12 B/R as LR's of the deceased
4rd petitioner vide court order dt 09/04/2026
made in CMP No. 31781, 31783, 31784/2025
KBJ

..Petitioner(s)

Vs

1. Karunamurthy- died
S/o.Sippai @ Ramasamy, So.Nambiandal
Village, Tiruvannamalai Taluk and District
2. Venkatesan
S/o.Late Karunamurthy,
So.Nambiandal Village,
Tiruvannamalai Taluk and District.
Sole Respondent died.
R2 B/R as LR's of the deceased sole respondent
vide court order
dt 09/04/2026 made in CMP No. 31928 and
31929/2025 KBJ

..Respondent(s)



Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decreetal order dated 14.09.2022 passed in I.A.No.349/2019 in O.S.No.270/2015 on the file of the Additional District Munsif Court, Tiruvannamalai.

For Petitioner(s): Mr.K. Govi Ganesan

For Respondent(s): Mr.R.P.Ruban Chakravarthy
for R2
R1 died

ORDER

Heard Mr.K.Govi Ganesan, learned counsel for the revision petitioner and Mr.R.P.Ruban Chakravarthy, learned counsel for the contesting second respondent,

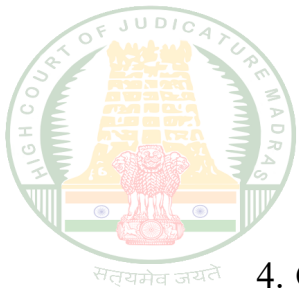
2. Mr. Govi Ganesan, learned counsel for the petitioner, would state that three suits are involved inter-se parties. The suit filed by the petitioners for partition in O.S.No.59 of 2006 was decreed on the file of the Sub Court, Tiruvannamalai granting a preliminary decree for partition in favour of the petitioners. Subsequently, final decree application also came to be filed and final decree was also passed. Subsequently, two suits in O.S.Nos.269 & 270 of 2015 came to be filed by purchasers of properties, claiming that they had purchased the property even prior to the filing of the suit for partition, and that they were bona fide purchasers, and the very partition suit itself was a collusive



action to defeat the rights of the purchasers. One suit in O.S.No.269 of 2015 was numbered and tried before the District Munsif Court, Thiruvannamalai.

However, as against a different purchaser, it was numbered as O.S.No.270 of 2015 and tried before the Sub Court, Thiruvannamalai. In both the suits, the petitioners were set exparte for not appearing despite service of summons. On the same set of facts, two different applications were filed seeking condonation of delay in filing the application to set aside the ex-parte decree. Believing the case of the petitioners, the District Munsif Court, Thiruvannamalai, in O.S.No.269 of 2015, set aside the ex-parte decree by order dated 26.06.2019, imposing costs of Rs.1000/- The said order was not challenged by way of revision. Subsequently, the suit was tried and dismissed as against the revision petitioners.

3. It is now brought to my notice by Mr. Govi Ganesan, learned counsel for the petitioners, that challenging the judgment and decree in O.S.No. 269 of 2015. First Appeal, is pending in AS.No.24 of 2023 before the Sub Court, Thiruvannamalai. However, the very same reasons that were assigned in the application to condone delay of 1048 days to set aside the ex-parte decree in OS.No.270 of 2015 before the Sub Court, Tiruvannamalai, have been disbelieved, and the application to condone delay has been dismissed. As against the said order, the present revision petition has been filed.



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4. Considering that the facts are intertwined and the suit properties in the partition suit are subject matter of the two subsequent suits in OS.Nos.269 & 270 of 2015 and now the very same issue with regard to the alienation made by co-sharers is under challenge in the pending First Appeal, the petitioners should not be deprived of an opportunity to contest the decree in O.S.No.270 of 2015. They had two options, one was to set aside the ex-parte decree by taking out an application to condone delay or prefer a First Appeal challenging the ex-parte judgment and decree in the suit. In the present case, they have chosen the relief to set aside the ex-parte decree along with an application to condone the delay. However, considering the above narrated circumstances and the fact that, as against similar set of facts, suit in O.S.No.269 of 2015 has been dismissed as against which the revision petitioners have filed a First Appeal which is pending before the Sub Court, Tiruvannamalai. I am inclined to allow the present revision with the following directions:-

a) The order passed by the Sub Court, Tiruvannamalai, dismissing the application to condone the delay, is confirmed. However, if the petitioners prefer an appeal within a period of four weeks from the date of receipt of the copy of this order, challenging the ex-parte decree in O.S.No.270 of 2015 before the Principal District Court, Tiruvannamalai, the Principal District Court, Tiruvannamalai shall take up the appeal without putting limitation against the



revision petitioners and after issuing notice to the contesting respondents, the Court shall decide the said appeal along with A.S.No.24 of 2023 which is also by this order being directed to be transferred exercising powers under Section 24 CPC, to be heard along with the First Appeal to be preferred challenging O.S.No.270 of 2015.

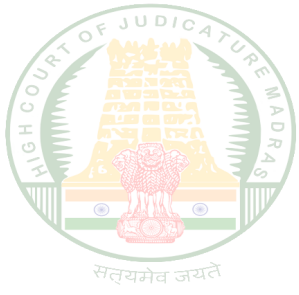
b) Both the appeals shall be heard and disposed of on merits within a period of eight weeks. Considering the inconvenience caused to the respondent, the petitioners shall pay a costs of Rs.10,000/- in the name of the respondent before the Sub Court, Tiruvannamalai by way of demand draft, and shall be handed over to the respondent through the counsel, Mr. Ruban Chakravathy.

c) A.S.No.24 of 2023, is suo motu withdrawn from the file of the Additional Principal Sub Court, Tiruvannamalai (now pending) and transferred to the Principal District Court, Tiruvannamalai.

5. With the above observations and directions, the civil revision petition is allowed. No costs.

12-08-2026

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



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CRP No. 4069 of 2



P.B.BALAJI, J.

DPQ

To

1. The Additional Principal Sub Court,
Tiruvannamalai.

2. The Principal District Court,
Tiruvannamalai.

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