

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 17.07.2026

Order pronounced on : 24.07.2026

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

CRP.No.585 of 2026
& CMP.No.3230 of 2026

M.Muthu

.. Petitioner

Vs.

1.K.Ammavasai
2.A.Vijayan

.. Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order dated 26.04.2024 in I.A.No.644 of 2019 in O.S.No.167 of 2012 on the file of the District Munsif, Chengam.

For Petitioner : Mr.Dalit Tiger C.Ponnusamy

For Respondents : Mr.A.Lakshmi Narasimhan

ORDER

The revision petitioner is the plaintiff, who is aggrieved by the dismissal of his application under Section 5 of the Limitation Act, which was filed seeking condonation



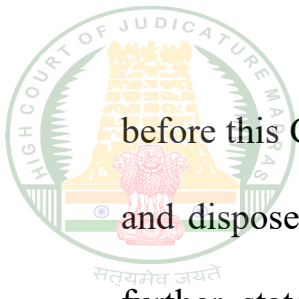
of delay of 1252 days in filing the application to restore the suit, which has been dismissed for default on 07.09.2015.

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2.I have heard Mr.Dalit Tiger C.Ponnusamy, learned counsel appearing for the revision petitioner and Mr.A.Lakshminarasimhan, learned counsel appearing for the respondents.

3.Mr.Dalit Tiger C.Ponnusamy, learned counsel for the revision petitioner would state that despite sufficient reasons having been assigned by the petitioner, showing sufficient cause and explaining the delay, the trial Court has erroneously dismissed the application. In this regard, he would take me through the affidavit of the petitioner, filed in support of the application for condonation of delay and contend that the petitioner had filed a suit for declaration as early as 05.09.2012 in O.S.No.167 of 2012. However, the petitioner's counsel did not inform the petitioner about the progress of the suit until 02.05.2014.

4.According to the learned counsel for the petitioner, the petitioner sent a representation on 02.05.2014 to the District Collector, Tiruvannamalai and other authorities, seeking to remove the encroachments put up by the defendants in the property of the petitioner. He would further state that since no action was taken by the Revenue Authorities, the petitioner was also constrained to file W.P.No.21025 of 2014



before this Court and this Court directed the petitioner's representations to be considered and dispose of the same on merits, after hearing the contesting respondents. He would further state that thereafter the petitioner had approached this Court once again in W.P.No.35140 of 2014, since the official respondents did not act on his representation dated 16.12.2014, complaining of encroachments by the respondents herein. He would state that only at that time, the petitioner came to know about the suit.

5.Taking me through the order dated 20.08.2024, the learned counsel for the petitioner would contend that the petitioner was totally in dark about even the factum of the suit having been numbered and his counsel had terribly let him down. The petitioner therefore had to engage a different counsel and get all necessary papers and thereafter filed the application to restore the suit to file, with an another application seeking condonation of delay. He would therefore state that when the Hon'ble Division Bench of this Court, by order dated 03.01.2017, noticing that the suit had already been filed by the petitioner in O.S.No.167 of 2012, had dismissed W.P.No.35140 of 2014, on the ground that inter se disputes between the private parties will have to be settled only before the Civil Court, he would therefore pray for an opportunity may be given to the petitioner to prosecute the suit on merits, especially when he has been repeatedly knocking at the doors of this Court and there has been no negligence on his part, but only on his counsel's part, which led to the dismissal of the suit.



6.Per contra, Mr.A.Lakshminarasimhan, learned counsel appearing respondents would state that the trial Court has rightly dismissed the condone delay application finding that no sufficient cause has been made out, explaining the delay of 1252 days. He would further state that at least when the writ petition filed by the petitioner was dismissed on 03.01.2017, the petitioner could have taken steps to find out the status of the suit and ought to have taken necessary steps to restore the suit. Having failed to do so for close to two years thereafter, according to the learned counsel for the respondents, the petitioner cannot now shed crocodile tears and also blame his counsel for the suit being dismissed for default. He would therefore pray for dismissal of the revision.

7.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the affidavit and petition filed in support of the condone delay application, counter filed in the said application and the impugned order passed by the trial Court, refusing to condone the delay.

8.As rightly pointed out by the trial Court, firstly, having filed the suit, it was the duty of the petitioner to follow up his case and the petitioner cannot shift the entire blame on his counsel for not having informed about the status of the case. Secondly, even assuming that the petitioner, being an illiterate person and was depending on his lawyer and was under the impression that even the suit had not been filed and numbered,



at least when the writ petition filed by him came to be dismissed by this Court on 03.01.2017 clearly referring to the suit number itself, the petitioner ought to have woken up and taken immediate steps to follow up the said suit. However, admittedly the application to restore the suit, along with the condone delay application came to be filed only in March 2019, clearly after two years from the date of dismissal of the writ petition. This crucial period of two years stands totally unexplained in the affidavit. In such circumstances, I do not see any illegality or infirmity in the findings arrived at by the trial Court, warranting interference in revision.

9. In fine, the Civil Revision Petition is dismissed. No costs. Connected Civil Miscellaneous Petition is closed.

24.07.2026

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

The District Munsif, Chengam.



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P.B.BALAJI.J,

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Pre-delivery order made in
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