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CRP.Nos.5388, 5382, 5387 & 5388 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:06.11.2025

Pronounced on: 05.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.5388, 5382, 5387 & 5389 of 2025
and CMP. No.27116 of 2025**

Jaya @ Jayalakshmi

Petitioner in all CRPs

Vs

Rasamani @ Mani

Respondent in all CRPs

COMMON PRAYER: This Civil Revision Petitions are filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 14.07.2025 made in E.A. No.1 of 2023 in E.P. No.183 of 2022 in O.S. No.32 of 2016; to set aside the order dated 05.08.2025 made in I.A No.03 of 2024 in O.S. No.32 of 2016; to set aside the order dated 05.08.2025 made in I.A. No.02 of 2024 in O.S. No.32 of 2016; and to set aside the order dated 14.07.2025 made in E.A. No.2 of 2023 in E.P. No.183 of 2022 in O.S. No.32 of 2016, all are on the file of the III Additional District/Sessions Court, Salem by allowing this Civil Revision Petition.

For Petitioner : Mr.M.Guruprasad for
Mr.D.Lakshmipathy in all CRPs
For Respondent : Mr.L.Mouli in all CRPs



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COMMON ORDER

All these revision petitions are at the instance of the defendant in O.S. No.32 of 2016 on the file of the III Additional District and Sessions Court, Salem.

2. I have heard Mr.M.Guruprasad, for Mr.N.Lakshmipathi, learned counsel for the revision petitioner in all these revisions and Mr.L.Mouli, learned counsel for the respondents in all these revisions.

3. Mr.M.Guruprasad, learned counsel for the revision petitioner would submit that the suit for specific performance was filed by the respondent and pending trial of the suit, the defendant sought to file an additional written statement which came to be dismissed by the Trial Court. The said order was challenged before this Court in CRP. No.962 of 2017. Pending the CRP, the petitioner had the benefit of an interim stay as well. However, Mr.M.Guruprasad, learned counsel for the petitioner would submit that the said revision ultimately came to be dismissed on 18.03.2017 and thereafter, the petitioner had filed I.A. No.1 of 2021 for amendment of the written statement which also came to be dismissed on 10.11.2021. The said order was challenged by the



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petitioner before this Court in CRP. No.474 of 2022. Inviting my attention to the order passed by this Court on 11.01.2024, the learned counsel for the petitioner submits that taking note of the fact that the suit has been decreed exparte on 09.12.2021 and the revision has become infructuous, giving liberty to restore the revision in the event of the exparte decree being set aside, the said CRP. No.474 of 2022, came to be disposed.

4. Mr.M.Guruprasad, learned counsel for the petitioner would submit that though a memo was filed by the petitioner on 09.12.2021, before the Trial Court seeking time on the ground that the petitioner intended to challenge the order in I.A. No.1 of 2021 declining to permit the amendment of the written statement, the Trial Court refused to adjourn the matter and proceeded to decree the suit on 09.12.2021. The learned counsel would therefore state that it is not the case where the petitioner has been indifferent or careless and he has been diligently defending the suit and therefore, an opportunity ought to have been given by the Trial Court to permit the petitioner to contest the suit for specific performance on merits and especially considering that the valuable immovable property of the petitioner is being taken away under the guise of an exparte decree for specific performance. He would further



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submit that the other revision petitions CRP. Nos.5387, 5388 and 5389 of 2025 are only consequential petitions arising out of orders passed in E.A. Nos.1 & 2 of 2023 in EP. No.183 of 2022 and I.A. No.03 of 2024 in O.S. No.32 of 2016. The learned counsel would therefore state that the order being passed in the revisions in CRP. No.5382 and 5387 of 2025, would have a bearing on the decisions in the other two revisions.

5. Per contra, Mr.L.Mouli, learned counsel for the respondent submit that it is not as if the petitioner was diligently prosecuting the matter. Inviting my attention to the affidavit filed in support of the application for condonation of delay, the learned counsel would submit that absolutely no reason has been assigned for the huge and inordinate delay of 833 days in filing the application to set aside the exparte decree. He would state that the petitioner was very much present before the Trial Court when the judgment came to be passed and it was only after the suit was decreed alone, the petitioner filed the revision petition in CRP. No. 474 of 2022 and though it has been recorded by this Court that pending the revision, the suit was decreed exparte, the fact remains that the decree was passed long before even filing of the said revision petition, challenging the dismissal of the application filed by the petitioner seeking amendment of the written statement.

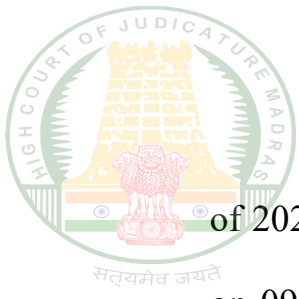


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6. He would further state that even in the Execution Petition taken out by the respondent, the petitioner was served and even there he remained exparte and therefore, all these have been rightly considered by the trial judge in dismissing the application and no interference is warranted. Pending these revision petitions, the Court has also executed a sale deed in favour of the respondent, in furtherance of the decree for specific performance.

7. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the papers including the orders impugned in these revision petitions.

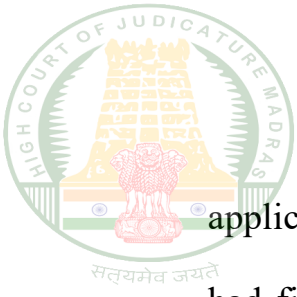
8. Firstly, in order to seek condonation of delay of 833 days, the petitioner has to make out just and sufficient cause for becoming entitled to an order in his favour. Examining the affidavit filed in support of the application to condone delay, I find that the only reason given by the petitioner is that the cause for filing the delay is accidental because of the pendency of the revision petition in CRP. No.474 of 2022. As rightly pointed out by the learned counsel for the respondent Mr.L.Mouli, the exparte decree came to be passed on 09.12.2021. However, CRP. No.474



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of 2022 was filed only on 14.02.2022, after the suit having been decreed on 09.12.2021. Therefore, the petitioner was clearly having knowledge about the exparte decree passed against him. The petitioner never took any steps to file the application to set aside the exparte decree and only after the dismissal of the CRP on 11.01.2024, that too not immediately but after lapse of three months, the petitioner has filed an application seeking condonation of delay of 833 days. The Trial Court has rightly considered the relevant circumstances and rendered a finding that the petitioner has not shown any sufficient cause, justifying the delay of 833 days. The Trial Court has also found that even in the EP, the petitioner was served and therefore, at all relevant points of time, the petitioner had knowledge about the exparte decree. I do not find any infirmity in the findings arrived at by the Trial Court and warranting interference in the impugned orders and accordingly, CRP. Nos.5382 and 5387 of 2025 are liable to be dismissed.

9. Insofar as CRP. Nos.5388 and 5389 of 2025, these applications have been filed challenging the orders passed by the Executing Court in dismissing the application filed by the revision petitioner. Even in the Executing Court, there has been a delay of 96 days in filing the



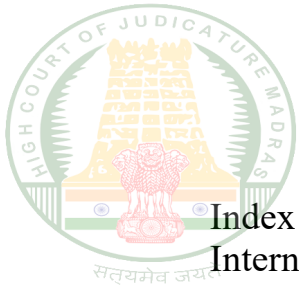
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application to set aside the exparte order. The petitioner contends that he had filed an application under Section 47 CPC, however the same was returned and thereafter, an exparte order came to be passed in the Execution Petition. Though admittedly, there has been a delay in filing the application, the petitioner states that he could not file counter on 27.04.2023 and that subsequently, his son was suffering from jaundice and therefore, the set aside application also could not be filed in time. The Executing Court has relied on the decision of this Court in *Sundarammal and others Vs. Kanagaraj and another, in CRP. No.808 & 809 of 2025 dated 26.06.2025* and held that the application to condone delay was not maintainable beyond the prescribed period of 30 days. In such circumstances, I do not find any infirmity in the orders passed by the Executing Court as well warranting interference in these two revisions.

10. In fine, all these Civil Revision Petitions are dismissed. Connected Miscellaneous Petition is also dismissed. No costs.

05.12.2025

rkp



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Index : Yes / No

Internet : Yes / No

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To:

The III Additional District/Sessions Judge,
Salem.

P.B.BALAJI, J.,

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Pre-delivery order in
CRP. Nos.5388, 5382, 5387 & 5389 of 2025
and CMP. No.27116 of 2025

05.12.2025