



WEB COPY

CRP No. 6040 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 01-09-2026**

CORAM

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

**CRP No. 6040 of 2025 and  
CMP No.29820 of 2025**

Nataraj (died)

Mayila, W/o Late Nataraj, No 111-1,  
Elangovadigal Street, Illuppapalayam Post,  
Lingapuram, Sirumugai, Coimbatore 641 302

..Petitioner(s)

Vs

Senthilkumar, S/o Venkatesan, No 65, New  
Extension Road, Mettupalayam Town,  
Mettupalayam

..Respondent(s)

Prayer: Civil Revision Petition has been filed under Section 115 of CPC to set aside the fair and final order passed in IA.No.1 of 2024 in OS.No.141 of 2010 on the file of the 1st Additional Sub Court, Coimbatore dated 21.08.2025.

For Petitioner(s): Mr. B.Kumarasamy

For Respondent(s): M/s.K.Mukunth, Senior Counsel  
for Mr.K.Sudhakar

### **ORDER**

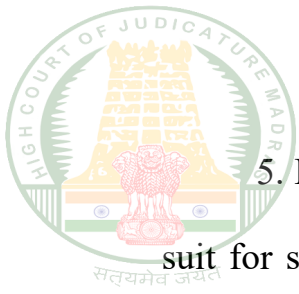
This civil revision petition has been filed to set aside the order passed by the Trial Court in in IA.No.1 of 2024 in OS.No.141 of 2010 dated 21.08.2025.



2. The respondent herein/plaintiff filed a suit in O.S.No.141 of 2010 seeking specific performance against the defendant, husband of the petitioner herein and the same was decreed exparte on 25.11.2020. Subsequently, the defendant filed an application under Section 5 of the Limitation Act in I.A.No.1 of 2024 in O.S.No.141 of 2010, seeking condonation of the delay of 4782 days in filing an application to set aside the exparte decree. The Trial Court dismissed the said application and aggrieved by the same, the present civil revision petition has been filed.

3. I heard Mr.B.Kumarasamy, learned counsel for the petitioner and Mr.S.Mukunth learned Senior Counsel for Mr.K.Sudhakar for the respondent.

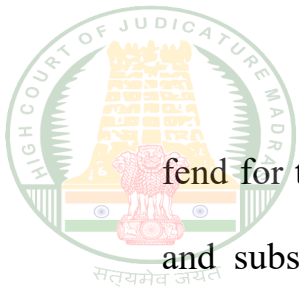
4. The learned counsel for the revision petitioner would state that though the delay appears to be inordinate, namely 4782 days, the Trial Court has failed to see that the delay had been sufficiently explained. He would further contend that the petitioner ought to have been afforded a fair opportunity to contest the suit, especially, since the property prices have gone up multifold, since the date of the original sale agreement. He would further state that the suit itself was filed for specific performance, after the period of limitation and even the execution petition was filed only after 9 years. It is therefore, the contention of the learned counsel for the petitioner that the Trial Court should have adopted a more liberal approach by condoning the delay.



5. Per contra, Mr.S.Mukunth, learned Senior Counsel would state that the suit for specific performance was filed to enforce an agreement of sale dated 14.02.2005 and the suit was admittedly decreed exparte. Thereafter, the respondent has filed an execution petition and the sale deed also been executed by the Court. It is only when delivery was attempted to be taken through court, an application for condonation of delay along with the application to set aside the exparte decree came to be filed. The learned Senior Counsel would state that the reasons assigned by the petitioner for explaining the huge and inordinate delay of 4782 days are totally uninspiring and rightly the Trial Court refused to exercise its discretion under Section 5 of the Limitation Act. He would therefore pray for dismissal of the civil revision petition.

6. I have carefully considered the submission advanced on either side.

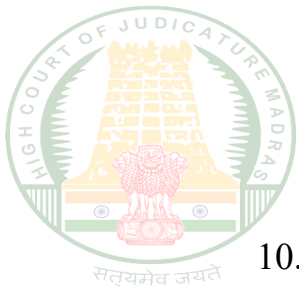
7. It is an admitted fact that the respondent filed a suit for specific performance and the same came to be decreed, pursuant to which, execution petition was filed for sale deed being executed and registered in favour of the respondent/plaintiff. The sale deed has also been executed by the Court, after putting the defendant on notice. At the stage of taking possession through court process, the wife of the sole defendant has filed the application for condonation of delay, contending that her son met with an accident and subsequently he died on 23.12.2011, leaving behind herself and her husband to



find for themselves and that both the petitioner and her husband were illiterate and subsequently, her husband also died on 05.11.2023. According to the petitioner, notices were also not properly served on her husband in the suit as well as in the execution proceedings.

8. The Trial Court, on enquiry, found that the petitioner's husband was served in the suit as well as in the execution petition and in fact, in the suit, he had also entered appearance through a lawyer, but had not chosen to file written statement, which subsequently resulted in the defendant being set exparte. The Trial Court, on perusal of records also found that the summons on the defendant was served on 12.04.2010 and the defendant also entered appearance through counsel on 27.04.2010 and thereafter, despite several adjournments granted, the defendant did not come forward to file a written statement and the learned counsel, who had been engaged by the petitioner has also reported "no instructions". The Trial Court, therefore, found that the reasons assigned by the petitioner were in fact false and did not entitle the petitioner to exercise of any discretion under Section 5 of the Limitation Act.

9. The finding of the Trial Court that the petitioner has not shown sufficient cause, which is a condition precedent for exercise of discretionary relief under Section 5 of the Limitation Act, is well merited and does not require any interference in this revision.



10. Accordingly, this civil revision petition is dismissed. Considering that the respondent, despite the decree in his favour, has not been able to take possession of the property, that has been sold to him in execution, I direct the I Additional Sub Judge Coimbatore to dispose of E.P.No.141 of 2010, within a period of 3 months from the date of production of the copy of this order. There shall be no order as to costs. Connected miscellaneous petition is closed.

**01-09-2026**

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

MST

To

The I Additional Subordinate Judge,  
Coimbatore.



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**P.B.BALAJI, J.**

**MST**

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