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CRP No.6060 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

CORAM

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

CRP No. 6060 of 2025

Mr.Sakthivel

..Petitioner(s)

Vs

1. Mr.Shanmugam
2. Mr.Perumal
3. Mr.Muthu
4. Mr.Manikandan
5. Mrs.Ambika

..Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, 1908, to set aside the decree and order dated 01.09.2025 passed in I.A. No.1 of 2023 in O.S. No.43 of 2017 by the learned Subordinate Judge, Arni, Tiruvannamalai District by allowing this Civil Revision Petition.

For Petitioner(s):	Mr.S.Nagarajan
For Respondent(s):	No Appearance for R1
	Mr.P.Mani for R2 to R5

ORDER

The plaintiff in the suit for partition is the Revision Petitioner, aggrieved by the order passed in I.A No. 1 of 2023 in O.S. No.43 of 2017, which was filed for condonation of delay of 487 days in filing the application to restore the suit, which has been dismissed for default on 12.07.2022.



2. I have heard Mr.S.Nagarajan, learned counsel for the Revision Petitioner and Mr.P.Mani, learned counsel for Respondents 2 to 5.

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3. Mr.Nagarajan, the learned counsel for petitioner would contend that the suit being one for partition, where the petitioner is entitled to 1/3rd share, should be given an opportunity to prosecute the suit on merits. He would also contend that subsequent to the dismissal of the suit, settlement talks were going on between the parties and the petitioner was therefore in the fond hope that disputes would get resolved. However, the respondents did not come forward for any kind of settlement which necessitated the revival of the suit. The learned counsel further stated that the Revision Petitioner is a Siddha Doctor, who was suffering from Jaundice during the relevant point of time which incapacitated him from approaching the Court in time. The learned counsel would further contend that the application to restore the suit was the first application and otherwise, the petitioner has been diligently prosecuting the matter. He would therefore pray for Revision Petition be allowed and an opportunity to be given to the petitioner to have his suit for partition tried on merits.

4. Per contra, Mr.P.Mani, learned counsel for the respondents 2 to 5 would contend that the Trial Court has rightly dismissed the application filed for condonation of delay of 487 days and that the said order does not require interference in Revision. It is also the contention of Mr.P.Mani, learned counsel



that the petitioner has not made out any sufficient cause and also miserably failed to show satisfactory reasons, explaining the inordinate delay in filing the application for having the suit restored in time. He would therefore pray for dismissal of the Revision Petition.

5. I have carefully considered the submission advanced by the learned counsel on either side. I have also gone through the records, including the typed set of papers filed along with the Revision and the one filed by Mr..P.Mani, learned counsel, containing the exchange of notices between the parties in October 2022. Admittedly, the plaintiff's suit for partition was dismissed for default on 12.07.2022 and Application to restore the suit to file was taken out along with the application to condone the delay of 487 days.

6. On going through the affidavit filed in support of the application for condonation of delay, In the affidavit filed in support of the condone delay application, the petitioner has stated that he was aware of the fact that the suit was posted for trial on 12.07.2023 and that his Counsel had also duly intimated to him. However, it is his case that the petitioner was suffering from Jaundice and he was not able to contact his Counsel or appear in court on 12.07.2023. Only after recovering from Jaundice, he was able to meet his Counsel and then, he was informed about the dismissal of the suit and immediately necessary applications have been taken out. The said applications have been resisted by



the respondents. The 2nd respondent filed a counter denying the self-serving claims made in the affidavit in support of the condonation delay application. It was also contended that the relevant dates have also not been furnished, explaining the delay and no sufficient documents are filed in support of condone delay application as well.

7. The Trial Court, in and by order dated 01.09.2025, finding that the petitioner had knowledge of the dismissal of the suit even on 25.10.2022, had chosen to take out necessary applications only on 14.12.2023 and that this period of more than 1 year has not been explained, proceeded to dismiss the condone delay application.

8. As seen from exchange of notices, the petitioner's Counsel had issued a notice on 25.10.2022 to the respondents and even in the said notice, there is a specific reference to the suit for partition having been filed and also dismissed for non-prosecution. I find that the left thumb impression of the Revision Petitioner has been obtained in the said lawyer's notice, confirming the contents of the said notice. On receipt of the said notice, the respondents even sent a reply on 31.10.2022, affirming the fact that the suit for partition had already been dismissed and also stating that the petitioner did not have any right in the suit property. Thus, the case put forth in the affidavit in support of condone delay application clearly stands falsified by the notice issued by the petitioner



himself on 25.10.2022, where the petitioner does not plead of any health set back, leave alone jaundice.

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9. On the contrary, there is a specific reference to the suit and also its dismissal, only claiming that in view of the subsequent developments, the petitioner did not pursue the suit and left it for default. The stand taken in the said notice has been given a total go by, in the affidavit filed in support of the condone delay application

10. Further, as rightly pointed by Mr.P.Mani, learned counsel for the respondents 2 to 5, the petitioner could not have pleaded ignorance of the dismissal of suit having clearly referred to the said event, even in October 2022 in his lawyer's notice. Therefore, there is absolutely no explanation as to why the Application to restore the suit was not taken out atleast after 25.10.2022, for over a year, in such view of the matter, I am unable to see any error having been committed by Trial Court in dismissing the condone delay application, warranting interference in revision .



P.B. BALAJI.J.,

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11. In fine, there is no merit in the Revision Petition and accordingly, this

Civil Revision Petition is **dismissed**.

06-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RKP

To

The Subordinate Judge,
Arni, Thiruvannamalai District.

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