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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2026

CORAM

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

**CRP No.6293 of 2025
& CMP.No.No.31223 of 2025**

M.Govindsamy

..Petitioner

Vs

B.Saradhamani

..Respondent

Prayer: Civil Revision petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 20.11.2025 made in I.A.No.4 of 2024 in O.S.No.993 of 2008 on the file of the IV Additional District Munsif, Coimbatore.

For Petitioner:

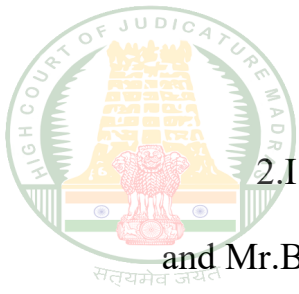
Mr.N.Ponraj

For Respondent:

Mr.B.Ramachandran

ORDER

The plaintiff in O.S.No.993 of 2008 on the file of the IV Additional District Munsif, Coimbatore, is the revision petitioner, aggrieved by the order passed in I.A.No.4 of 2024 in the said suit.



2.I have heard Mr.N.Ponraj, learned counsel for the revision petitioner and Mr.B.Ramachandran, learned counsel for the respondent.

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3.The Trial Court had entertained the condone delay application, by allowing I.A.No.4 of 2024, thereby condoning a delay of 135 days in filing the application to set aside the ex-parte decree.

4.Mr.N.Ponraj, learned counsel for the petitioner states that though the delay does not appear to be inordinate on the face of the length of delay, the respondent had not made out any sufficient cause, which is *sine qua non* for exercise of jurisdiction under Section 5 of the Limitation Act. He further states that despite being aware of the pendency of the final decree application in I.A.No.2 of 2019, the respondent did not even choose to file his counter and even along with the condone delay application as well, the counter affidavit has not been filed in the final decree application.

5.The learned counsel for the petitioner further states that the respondent is only a *pendente lite* purchaser of an undivided share and is not entitled to any audience in the final decree proceedings. According to the learned counsel for the petitioner, it is not for the respondent to dictate terms as to allotment of specific portions by participating in the final decree application as well. He would therefore pray for the order condoning the delay of 135 days being



reversed in revision. In support of his contention, he has relied on the decision of this Court in *Gomathi Ammal Vs. Madhusoodanan Nair and another*, reported in 1997 (I) CTC 651 and my order in *J.Kulasekaran Vs. K.M.Yella Reddy and others* in CRP.No.3197 of 2025 dated 09.01.2026.

6.Per contra, Mr.B.Ramachandran, learned counsel for the respondent would state that as between the same parties, there was an earlier revision in CRP.No.670 of 2025, which was disposed of by me on 22.09.2025, in and whereby, I had dismissed the revision petition filed by the respondent herein, challenging the execution proceedings, by giving a breathing time of 12 weeks for the respondent herein to workout his rights in the pending setting aside and condone delay applications in the memantine. The learned counsel therefore state that the order of the Trial Court, condoning the delay of 135 days, is neither illegal nor perverse, warranting interference in revision. He would therefore pray for dismissal of the revision.

7.I have carefully considered the submissions advanced by the learned counsel on either side.

8.The delay, though only 135 days is strongly opposed on the ground that the petitioner is being prevented from getting possession and enjoyment of her 1/4th share in the suit property and when the predecessors in interest of the



respondent did not even challenge the preliminary decree or even seek for allotment of their share by paying appropriate Court Fee, the third parties

pendente lite purchasers cannot be allowed to participate in the proceedings. In the earlier revision petition, I had clearly found that the petitioner's 1/4th right has become final and the petitioner was entitled to execute the said preliminary decree by seeking to be put in possession of his separate 1/4th share, after effecting partition by metes and bounds. At the same time, I had also given liberty to the respondent herein to workout his remedy in the pending condone delay application. Now, it is the said condone delay application that has been enquired into and allowed by the trial Court. The Trial Court has found that the petitioner has furnished sufficient and satisfactory reasons for non filing of the counter affidavit and it was only because of his eye ailments and surgeries that prevented the respondent from approaching the Court in time.

9. Though it is strongly contended by the learned counsel for the petitioner that to substantiate the medical conditions, no document was exhibited on the side of the respondent, I find that along with the revision, matching the dates and substantiating the reasons, sufficient documents have been filed by the respondent, which clearly evidence the fact that the respondent underwent surgeries in September 2023. Though it is contended by the learned counsel for the petitioner that the respondent was set-exparte even in July 2023 and surgery was performed only in the month of September 2023, I am unable to



countenance the said line of arguments for the simple reason that the surgery is always the last resort and it is the case of the respondent that he was suffering from severe eye ailments, which prevented him from appearing and filing counter in July 2023.

10.The fact that admittedly the respondent underwent surgeries in September 2023 cannot be disputed in the light of the documentary evidence that has now been filed along with the typed set of papers filed on behalf of the respondent. These documents, though not filed before the Trial Court, the Trial Court has exercised judicial discretion in condoning the delay. I do not see any perversity in the findings of the Trial Court, thinking it necessary to give an opportunity to the respondent. Merely because the Trial Court has observed in the order that the petitioner has substantiated the delay with medical reasons. Though such medical evidence admittedly was not filed before the Trial Court, I am unable to see this as a sole ground to allow the revision petition. Apart from the erroneous reference to medical evidence, the Trial Court has independently found satisfaction in the explanation offered by the petitioner and also found it to be bonafide and not with a malafide intention to drag the proceedings.

11.Though decisions have been cited by the learned counsel for the petitioner, on facts, this Court held that vague allegations of illness would not constitute sufficient cause. Here, admittedly, the petitioner has stated valid



reasons for not being able to file his counter leading to passing of final orders in the final decree application and in the present revision, the very same reasons that were assigned before the Trial Court have also been substantiated by production of medical records. Therefore, it cannot be categorised as a case where the allegations of illness are vague.

12. In *J. Kulasekaran's case*, I refused to condone the delay of 116 days, finding on facts that at every stage of the proceedings, there has been a delay and that a litigant who is not vigilant of his own rights cannot blame the counsel and seek for condonation of delay. In such view of the matter, I am unable to entertain this revision petition.

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

23.07.2026

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

To
The IV Additional District Munsif, Coimbatore.



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P.B.BALAJI, J.

ATA

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