



CRP(MD). No.1749 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

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Karuppanna Gounder (Died),

K. Somasundaram

... Petitioner

Vs

1. K. Kumararaj

2. K. Latha

... Respondents

PRAYER :- Civil Revision Petition filed under section 115 of civil procedure code, to set aside the order and decretal order passed by the District Munsif-cum Judicial Magistrate, Aravakurichi in I.A.No. 160/2020 in O.S.No. 248/2019 dated 25.08.2021.

For Petitioners : Mr. R.Devaraj

For Respondents : Mr.P.Samuel Gunasingh
For R1 & R2



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ORDER

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This Civil Revision Petition has been filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking to set aside the abatement of the suit caused by the death of the sole plaintiff.

2. The petitioner's father Karuppanna Gounder filed a suit in O.S.No.400 of 2010 on the file of the District Munsif Court, Karur seeking relief of declaration of title and for mandatory injunction. Pending suit, the sole plaintiff, namely the father of the petitioner herein died. The petitioner filed an application to bring himself on record as the legal representative of the deceased plaintiff. Since there was a delay in filing the said application, the petitioner also filed applications to set aside the abatement and to condone the delay of 204 days in filing the application to set aside the abatement. The application for condonation of delay was allowed by the trial Court. Thereafter, the application to set aside the abatement was taken up for consideration and the same was allowed by the trial Court on the condition that the petitioner pays costs. Since, the petitioner failed to pay the cost within the time stipulated by



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the trial Court, Hence, the instant order has been passed by the trial court dismissing the petition seeking to set aside the abatement caused to the suit by the death of the sole plaintiff. Aggrieved by the same, the petitioner has come before this court.

3. The learned Counsel appearing for the petitioner would submit that the trial court has already condoned the delay in filing petition to set aside the abatement caused to the suit by the death of the sole plaintiff and in such circumstances, it ought to have taken a liberal view while considering the application seeking to set aside the abatement.

4. He further submits that the petitioner is ready to pay any cost imposed by this Court in the facts and circumstances of the case.

5. The learned Counsel appearing for the respondents would vehemently contended that the petitioner is dragging on the said suit unnecessarily. The instant application was dismissed for failure to pay the cost as early as during August 2021 and the same has been challenged belatedly by filing a revision in the year 2024



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6. Heard the learned Counsel appearing on either side and perused the materials available on record.

7. It is seen from the records that the delay of 766 days in filing the present revision was already condoned by this Court in CMP(MD).No. 9015 of 2024 vide order dated 16.06.2026 by imposing a cost of Rs.1000/- on the petitioner. The petitioner duly complied with the condition by paying the amount to the Advocate Clerks Welfare Association, Madurai Bench of Madras High Court as per the order of this Court. Since the delay in filing the Civil Revision Petition was already condoned, the learned Counsel for the respondents is not entitled to argue that the petitioner has approached this court with delay.

8. Having regard to the fact that substantial rights of the parties are involved in the present suit which was filed for declaration of title, this court is inclined to take liberal view of the matter as the sole plaintiff had died and the petitioner wants to come on record as his legal representative.



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9. Accordingly, the impugned order is set aside and the Civil Revision Petition stands allowed on condition that the petitioner pays a sum of Rs.2000 (Rupees Two Thousand only) to the Chief Justice Relief Fund within a period of two weeks from today, failing which this Civil Revision Petition shall stand automatically dismissed. In case of compliance, the Civil Revision Petition stands allowed and the trial court is directed to take up the petition to bring on record and pass orders on its own merits.

10. With the said observations, this Civil Revision Petition stands allowed. No costs.

NCC : Yes/No
Index : Yes / No
Internet :Yes / No
gvn

06.08.2026

Note:

Upload and Issue order copy on 13.08.2026

To:

The District Munsif-cum Judicial Magistrate,
Aravakurichi.



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S.SOUNTHAR, J.

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