



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :29.06.2021**

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.R.P. (MD) (NPD) No.738 of 2014

1.K.A.Murugappan
2.K.A.Shanmugavel
3.Dr.V.Muthuveerappan
4.M.Saraswathi
5.M.Thaiyal Nayagi
6.M.K.Subba
7.M.Senthil Nathan ... Petitioners/Petitioners 2, 3, 5 to 9 /
Plaintiffs 2, 3, 5 to 9

-VS-

1.C.Thangapandian
2.C.Duraipandian
3.C.Paramasivan
4.S.Petchiammal
5.S.Arumugathammal
6.Parvathiammal
7.A.Chellapandi
8.E.Ganapathi Ammal
9.N.Chellammal
10.M.Samuel (died)
11.P.Narayanan
12.B.John Pandian
13.S.Mathavan
14.R.Muthusamy
15.K.A.Velappan
16.S.Visalakshi Ammal
17.Clinda VijayakumariRespondents/Respondents/Defendants

(Respondent No.17 is brought on record as Legal Heirs of deceased 10th respondent vide CMP(MD).No.11382 to 11384 of 2017)

(Respondents 1, 2, 4 to 9, 11, 13 to 16 are set exparte in Lower Court. Hence, they are given up in this CRP))

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order dated 28.09.2012 made in I.A.No.505 of 2012 in O.S.No.89 of 1996 on the file of II Additional District Munsif, Tirunelveli and to
<https://hcservices.court.gov.in/hcservice/> Civil Revision Petition.



For Petitioners : Mr.P.Thiagarajan
For R17 : Mr.T.A.Ebenezer
For R3 & R12 : No Appearance
R10 : died

WEB COPY

O R D E R

The present Civil Revision Petition is filed to set aside the fair and decreetal order dated 28.09.2012 made in I.A.No.505 of 2012 in O.S.No.89 of 1996 on the file of II Additional District Munsif, Tirunelveli.

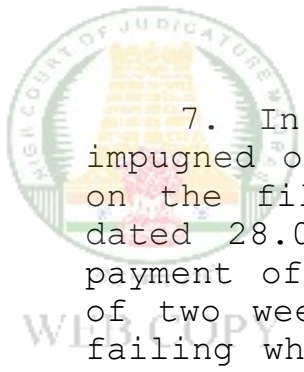
2. The facts of the case are that the revision petitioners are the plaintiffs and the respondents are defendants. The suit was filed for declaration and permanent injunction. The suit was dismissed for default on 08.06.2012 itself. The petitioners had filed the above application to condone the delay of 25 days in filing the application to set aside the said exparte order. Since the said application was dismissed, this Civil Revision Petition has been filed.

3.The learned counsel for the petitioners would submit that the delay is neither wilful nor wanton and that unless the delay is condoned, the petitioners would be put to great hardship and that when the delay has been explained satisfactory, the Court below erred in refusing to condone the delay and hence, he would pray for setting aside the impugned order.

4. The learned counsel for the respondents would submit that the suit is of the year 1993 and that the petitioners have not filed sufficient document to prove their contentions before the trial Court and that only with an intention to drag on the proceedings, the present revision has been filed and hence, this Civil Revision Petition is liable to be dismissed.

5.This Court heard the learned counsel for the petitioners and the respondents and perused the materials available on record.

6. Considering the facts and circumstances of the case and the fact that the delay is minimal, this Court is of the view that it would be appropriate, in the interest of justice, to have the matter decided on merits, after affording opportunity to both parties and after full-fledged trial, by allowing the parties to let in evidence both oral and documentary. Accordingly, in the interest of justice and in order to give one more opportunity, the present application is to be allowed on payment of cost.



7. In fine, this Civil Revision Petition is allowed. The impugned order passed in I.A.No.505 of 2012 in O.S.No.89 of 1996 on the file of the II Additional District Munsif, Tirunelveli, dated 28.09.2012 is set aside and the said IA is allowed on payment of cost of Rs.5,000/- to the respondents within a period of two week from the date of receipt of a copy of this order, failing which, this revision will stand dismissed automatically, without any further reference to this Court. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

msa/cp

To:

The II Additional District Munsif, Tirunelveli

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-20585[F] dated 29/06/2021)

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-20586[F] dated 29/06/2021)

**Order made in
C.R.P. (MD) (NPD) No.738 of 2014**

**Dated:
29.06.2021**

AS (05.07.2021) 3P 4C