



CRP.No.3468 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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K.P.Subramani

... Petitioner

Vs.

- 1.State of Tamil Nadu rep.by
The District Collector
Erode District
Office of the Collectorate Buildings
Perundurai Road
Erode – 11.
- 2.The Tahsildar of Perundurai
Office of the Taluk Office compound
Perundurai Town
Perundurai Taluk.
- 3.The Executive Officer
Pethampalayam
Office of Pethapalayam Panchayat Board
Pethampalayam
Perundurai Taluk.



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4.The President
Panchayat Board
Office of Pethampalayam Panchayat Road
Pethampalayam
Perundurai Taluk.

5.Assistant Director of Surveys and Boundaries
Survey Department
Office at Collectorate Buildings
Erode 11.

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and final order dated 19.07.2022 in I.A.No.1 of 2019 in O.S.No.60 of 2009 on the file of the District Munsif Court, Perundurai by allowing this Civil Revision Petition.

For Petitioner : Mr.S.Arun Prasath
for Mr.M.Guruprasad

For Respondents : Dr.S.Suriya
Additional Government Pleader

ORDER

This Civil Revision Petition is filed, challenging the order passed by the Court below dismissing the petition to condone the delay of 1292 days in filing a petition to restore the suit, which was dismissed for default on 05.08.2015.



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2. According to the petitioner, he filed a suit for declaration and permanent injunction against the respondents. When the suit was pending during August 2015, he was affected by jaundice and he had taken Ayurvedic treatment in Kerala for the said illness.

3. It was also stated that he was very weak and he was advised to take complete rest. The petitioner further stated that he had recovered from the illness only during the last month of 2018 and thereafter, he contacted his counsel in February 2019 and he acquired knowledge about the dismissal of the suit. Thereafter, he filed a restoration petition on 18.03.2019 along with the petition to condone the delay of 1292 days.

4. Before the Court below, the petitioner was examined as PW1 and he deposed that he had been affected by jaundice and initially he had taken allopathy treatment and after his Doctor diagnosed him with jaundice in July 2015 he proceed to Kerala and had taken Ayurvedic treatment. To substantiate the said statement that he had been suffering from jaundice for



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nearly 3 1/2 years, the petitioner has not filed any documentary evidence.

Except his oral evidence there is no other evidence available on record in support of his statement. While dismissing the petition to condone the delay, the Court below has also observed that the the petitioner had filed the second petition for restoration of the suit. In the absence of any materials to explain the long delay of 1292 days, the Court below rightly justified in refusing to condone the delay. I do not find any error in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. No costs.

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Index : Yes / No
Internet : Yes / No
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To

The District Munsif Court, Perundurai.



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S.SOUNTHAR, J.
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