



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM

THE HON'BLE MRS.JUSTICE S.ANANTHI

C.R.P (MD)No.236 of 2022

and

C.M.P (MD)No.1045 of 2022

WEB COPY

S.Thirumoorthy

...Petitioner/Petitioner/
Defendant

Vs.

S.Krishnasamy (died)

1.Padma

2.K.Sarveshwaran

3.K.Vijayalakshmi

4.K.Vasuki

...Respondents/Respondent/
Plaintiffs

PRAYER: Civil Revision Petition filed under Article 115 of the Civil Procedure Code, to call for the records and to set aside the fair and decreetal order passed in I.A.No.1 of 2021 in O.S.No.111 of 2010 on the file of the District Munsif Court, Periyakulam, Theni district, dated 21.10.2021.

For Petitioner : Mr.H.Velavadhas

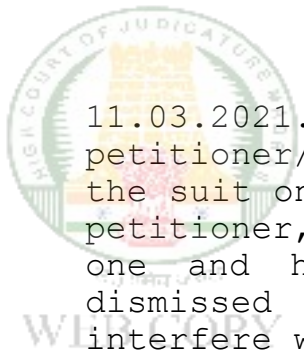
For Respondents : Mr.A.Sivasubramanian

ORDER

The Civil Revision Petition has been filed to set aside the fair and decreetal order passed in I.A.No.1 of 2021 in O.S.No.111 of 2010 on the file of the District Munsif Court, Periyakulam, Theni district, dated 21.10.2021.

2.I.A.No.1 of 2021 was filed by the revision petitioner/defendant under Section 5 of the Limitation Act, to condone the delay of 1635 days in filing the petition, which was dismissed by the learned District Munsif, Periyakulam, Theni district. Aggrieved by the said order, the revision petitioner/defendant has filed this Civil Revision Petition.

3.A perusal of records would show that one S.Krishnasamy (died) filed a suit in O.S.No.111 of 2010, for declaration and permanent injunction and the same was decreed as ex-parte on 23.08.2016. The reason stated by the revision petitioner/defendant is that he received the E.P. notice from the learned District Munsif, Periyakulam on 14.11.2019 and he has filed a counter in E.P. on 03.12.2020 after one year. Even then, he has not filed any ex-parte set aside petition, thereafter, he has filed I.A.No.1 of 2021 on



11.03.2021. Even as per averments in this petition, the revision petitioner/defendant had come to know about the ex-parte decree of the suit on 14.11.2019. Each and every delay to be explained by the petitioner, but he filed a petition without any proper reasons after one and half years. Therefore, the trial Court has rightly dismissed I.A.No.1 of 2021. This Court finds no valid reason to interfere with the order of the Court below.

4.In view of the above, this Civil Revision Petition is dismissed. The order dated 21.10.2021 made in I.A.No.1 of 2021 in O.S.No.111 of 2010 passed by the learned District Munsiff Court, Periyakulam, Theni District, is hereby confirmed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

The District Munsif,
Periyakulam,
Theni district.

Copy to

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P (MD) No.236 of 2022

and

C.M.P (MD) No.1045 of 2022

Dated:

24.03.2022

NA (CO)

RK(22/04/2022) 2P 4C