



WEB COPY

CRP.No.4686 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

**THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR**

**CRP.No.4686 of 2023**

Krishnan

... Petitioner

Vs.

1. Pazhani
2. Vadivel
3. Govidasamy
4. Chinnasamy
5. Murugesan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order in I.A. No. 1 of 2021 in O.S. No. 116 of 2016 on the file of the Principal Sub Court, Dharmapuri dated 16.08.2023 as manifestly erroneous, contrary to law and against the principles of natural justice.

For Petitioner : Mr.Avinashwadhvani

For Respondents : Mr.V.Sakkarapani (for R1 to R4)

No appearance (for R5)



## ORDER

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This Civil Revision Petition has been filed against the fair and decretal order dated 16.08.2023 in I.A. No. 1 of 2021 in O.S. No. 116 of 2016, on the file of the Principal Sub Court, Dharmapuri, thereby dismissing the application filed by the petitioner to condone the delay of 1794 days in filing to set aside the ex-parte decree.

2. The first to fourth respondents filed a suit against the petitioner and his brother for declaration and permanent injunction in respect of the suit-scheduled properties. Since the revision petitioner and his brother failed to file their written statement, the trial Court passed an ex-parte decree on 25.10.2016. Thereafter, the petitioner filed a written statement on 20.09.2021 and also filed an application, I.A. No. 1 of 2021 in O.S. No. 116 of 2016, seeking to condone the delay of 1794 days and to set aside the ex-parte decree.

3. The reasons assigned by the revision petitioner are that, since he is working in Bangalore, and he alone is following up on the suit on behalf of



his brother as well, he was not in a position to follow up on the case.

Therefore, a delay occurred. Hence, he seeks to set aside the ex-parte decree.

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4. Before the trial Court, the petitioner was examined as PW1. Though he filed some documents to show that he was residing in Bangalore, it is relevant to note that he had engaged counsel only at the instructions of his brother, Murugesan, and that the present application was filed jointly with his brother. Even assuming that the petitioner was working in Bangalore, it is pertinent to note that having engaged counsel in his native place, Dharmapuri, it cannot be said that the petitioner is not expected to follow his case properly. The distance between Dharmapuri and Bangalore is not huge and one can easily visit within three hours. There are persons who regularly visit Bangalore from Dharmapuri. Therefore, these facts cannot be disputed.

5. Thus, the petitioner, having engaged a counsel has a duty to follow his case and cannot expect the counsel to inform him of every aspect. Further, the petitioner should have been very vigilant in following up the matter and having allowed the decree passed in favour of the plaintiffs for more than five years now, the decree cannot be unsettled particularly with



vague explanations which are not convincing. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

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

05.11.2024

**kv**

To

1. The Principal Sub Court, Dharmapuri.
2. The Section Officer,  
V.R. Section, High Court of Madras.



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**N.SATHISH KUMAR, J.**

**Kv**

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