



C.R.P(MD)No.1393 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1393 of 2019

and

C.M.P(MD)No.7412 of 2019

S.Ramaraj

... Petitioner / Petitioner/
Plaintiff

Vs.

S.Rajasekaran

... Respondent/Respondent
Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to call for the records relating to the fair and decreetal order, dated 28.01.2019 and made in I.A.No.58 of 2018 in O.S.No.64 of 2014 on the file of the learned Additional District & Sessions Court, Theni at Periyakulam, set aside the same and allow the civil revision petition.

For Petitioner : Mr.V.S.Kumaraguru

For Respondent : Mr.C.Mayil Vahana Rajendran



C.R.P(MD)No.1393 of 2019

ORDER

WEB COPY

The plaintiff in O.S.No.64 of 2014 on the file of the Additional District and Sessions Court, Theni at Periyakulam has filed the present revision petition challenging an order, wherein the trial Court had dismissed an application to condone the delay of 445 days in filing an application to restore the suit that was dismissed for default.

2. The petitioner herein had filed O.S.No.64 of 2014 for relief of permanent injunction restraining the defendants and the legal heirs of one Subramaniam from alienating or encumbering the suit schedule properties. The said suit was tagged along with O.S.No.2 of 2012 which was filed by the same plaintiff for the relief of partition and separate possession.

3. Suit in O.S.No.2 of 2012 was also dismissed for default. The plaintiff therein had filed I.A.No.148 of 2017 to restore the said suit and the said application was dismissed and it has attained finality. Citing the said reason, the application filed by the plaintiff in O.S.No.64 of 2014 has been dismissed by the trial Court. Challenging the same, the present revision petition has been filed.



C.R.P(MD)No.1393 of 2019

4. When the suit for partition has been dismissed for default and the plaintiff therein has not chosen to challenge the same, nothing survives to be adjudicated in a suit which has been filed for permanent injunction not to alienate any joint family property. Therefore, nothing survives in the revision petition.

5. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

04.04.2024

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

gbg

To

1.The Additional District & Sessions Court,
Theni at Periyakulam.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.1393 of 2019

R.VIJAYAKUMAR ,J.

gbg

Order made in
C.R.P(MD)No.1393 of 2019

04.04.2024