



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

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CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

CRP No. 432 of 2019 and CMP.No.2906 of 2019

1.PERIYASAMY@APPUSAMY(Died)

S/o. Pongiyanna Gounder, Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.

2. CHOKKALINGAM

S/o. Periyasamy @ Appusamy, Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.

3. BABY

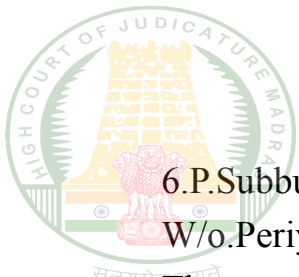
D/o. Periyasamy @ Appusamy,
Sanniyasipatty And Po, Bhavani Tk,
Erode Dist.

4. TAMILSELVI

W/o. Ponnusamy And Periyasamy @
Appusamy, Erayamangalam,tiruchengode
Tk, Namakkal Dist.

5. MANJULA

D/o. Periyasamy @ Appusamy, Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.



6.P.Subbulakshmi

W/o.Periyasamy @Appusamy, Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.

Petitioner-1 Died. Petitioner -6 brought
on record as LR's of the deceased
Petitioner-1 Viz Periyasamy alias
Appusamy vide court order dated
19/12/2022 made in CMP
Nos.22088,22089 and 22092 of 2022 in
CRP No.432 of 2019 by GKIJ.

Petitioner(s)

Vs

1. LAKSHMI(Died)

W/o. Chinnannagounder, Kooduthurai,
Paramathi Velur, Olapayam Post,
Namakkal Tk And Dist.

2.THANGAMMAL

W/o. Late Arumugam, Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.

3.ANNAPOORANI

W/o. Late Kumarasamy, Thottakadu,
Vettamangalam Post, Karur Tk And
Dist.

4.KASTHOORI

W/o. Late Chinnathambi, No. 301,
Koottapalli Colony, Tiruchengode Tk,
Namakkal Dist.



5.MURUGAN

S/o. Late Arumugam., Kombai
Thottam, Chittar, Kesarimangalam
Village, Bhavani Tk, Erode Dist.

6.C.Periyasamy

S/o.late Chinnanna Gounder, D.No.227,
Kooduthurai, Olappalayam Punjuai
Edaiyar Keelmugam Village, Mohanur
Tk, Namakkal Tk and Dist.

Respondent-1Died. Respondent-6

brought on record as LR's of the
deceased R-1 Viz Lakshmi vide court
order dated 19/12/2022 made in CMP
No. 22088,22089 and 22092 of 2022 in
CRP No.432 of 2019 by GKIJ.

Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Final Order dated 14.03.2018 made in IA no.164/2017 in OS No.14/2009 on the file of the Learned Additional District Judge, Fast Track Court No. IV, Bhavani , Erode District.

For Petitioner(s): P.M.Duraiswamy

For Respondent(s): M/s.T.L.Thirumalaisamy

For R3, R4 And R6

M/s.M.V.Venkataseshan

For R2 And R5

R1 Died - Steps Taken

Pvt Notice

R1 - Died (vide Eb)

**ORDER**

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2. Pending the suit, the first defendant namely Periyasamy @ Appusamy died, and the second defendant, a college student, was unaware of the pendency of the suit. Due to the lack of communication between the parties and their counsel, an exparte order was passed on 10.08.2009, and a preliminary decree was passed on 07.11.2009.

3. Learned counsel for the revision petitioner would contend that since the first defendant, who was handling the case, had died and his college going son was unaware of the pending case, though he was made as a party, he could not appear before the trial Court to proceed with the same. Therefore, the learned counsel submitted that the delay of 2,799 days in filing the application



to restore the suit was neither willful nor wanton.

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4. Per contra, the learned counsel appearing for the respondents would contend that the defendants cannot claim innocence regarding the pendency of the suit, as they were made as parties to the case, and an exparte order and preliminary decree were passed, yet they filed the application to restore the suit with a significant delay of 2,799 days, which was not satisfactorily explained. Therefore, the learned counsel submitted that the Trial Court has rightly rejected the application of the defendants.

5. I have considered the rival submissions made on either side and perused the materials available on record.

6. Admittedly, the first defendant, who was handling the case, is no longer alive and the second defendant is a college student. The mental state of the college student cannot be ignored on the ground that he was unaware of the litigation, which was being monitored by his father. Therefore, the inordinate



delay in filing the application to set aside the exparte order can be condoned.

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7. This Civil Revision Petition stands allowed on the condition that the revision petitioner pays a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the respondents 2 to 6 in equal share. The fair and final order dated 14.03.2018 made in I.A.No.164 of 2017 in O.S.No.14 of 2009 on the file of the learned Additional District Judge, Fast Track Court No.IV, Bhavani, Erode District is set aside. Since the suit is of the year 2009, the Trial Court is directed to dispose of the same within a period of one (1) year from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

17-04-2025

Anu

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Learned Additional District Judge, Fast Track Court No. IV, Bhavani ,
Erode District



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CRP No. 432 of 2019



N.SENTHILKUMAR J.

Anu

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2019**

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