



C.R.P.No.1636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P.No.1636 of 2023

V.Sivakumar

...Petitioner

vs.

1.T.Ramasamy

2.Saliyammal

... Respondents

Prayer : Civil Revision Petition filed under Section 115 of C.P.C., against the order passed in I.A.No.01 of 2022 in O.S.No.120 of 2014 by the Principal Subordinate Court, Krishnagiri on 20.01.2023, dismissing the application filed by the petitioner to set aside the ex-parte decree in this suit for partition with a petition to condone the delay of 2111 days in filing the petition under Order 9 Rule 13 of C.P.C. during pendency of final decree petition.

For Petitioner : Mr.U.Manogar

For Respondents : Mr.N.Nathami for R1 & R2

ORDER

The present revision is filed challenging the order passed in I.A.No.01 of 2022 in O.S.No.120 of 2014.



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2.The Revision Petitioner is the 4th defendant. The suit was filed by the plaintiff for partition. The suit was decreed exparte on 16.11.2015. The 4th defendant had filed an application to set aside the order with a delay of 2111 days in filing the petition under Order IX Rule 13 CPC and the same was dismissed by the Trial Court in I.A.No.1 of 2022. Aggrieved by the said order, the present revision has been filed.

3.Learned counsel for the respondents would contend that they had paid a sum of Rs.15,000/- towards the cost for appointment of an Advocate Commissioner and had contested the suit for such a long period. The claim of the respondents/plaintiffs cannot be brushed aside by taking a lenient view on the wanton delay by the Revision Petitioner.

4.Originally, the suit was filed for partition of a large extent of land as stated in the plaint. The wanton delay in filing the petition to set aside the exparte order by the 4th defendant cannot be the only reason for denying the property right which is vested with him and which continues even after his demise. Therefore, such right cannot be ignored or denied for the delay or inordinate delay caused by the Revision Petitioner.



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5.The Civil Revision Petition is allowed only on payment of a cost of Rs.50,000/- to the plaintiff/respondent. The said amount shall be paid before the Trial Court within a period of 30 days from the date of receipt of a copy of this order.

6.As the suit is of the year 2014, the Trial Court is directed to dispose of the suit within a period of 1 year from the date of receipt of a copy of this order after the payment of Rs.50,000/- to be paid to the respondents/plaintiffs.

7.With the above directions, the revision petition is allowed and the order passed by the Principal Sub Judge, Krishnagiri in I.A.No.1 of 2022 in O.S.No.120 of 2014 dated 20.01.2023 is set aside. No costs.

14.02.2025

Index : Yes/No
Speaking/Non Speaking order
NCC: Yes/No
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N.SENTHILKUMAR, J,

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To

The Principal Subordinate Court,
Krishnagiri.

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