



WEB COPY

CRP.No.1851 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

CORAM

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

**CRP No. 1851 of 2020
and
CMP.No.11104 of 2020**

C.Selvaraj (Died)

1. S.Ravichandran

2. S.Chandra Sekar

3.S.Jegadambal

4.S.Rajalakshmi

...Petitioners/Petitioners/Defendants

Vs

1.V.V.Ramaswamy (Died)

...1st Respondent/Plaintiff

2. Sai Gopal

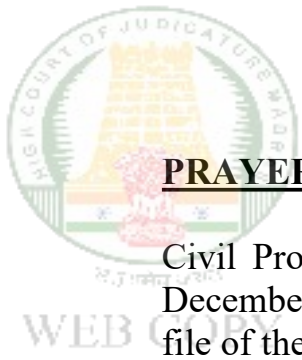
3. Sai Manohar

...Respondents 2 & 3/LR's of deceased
1st Respondent

Sole respondent died.

Respondents 2 & 3 are brought on
record as Legal Representatives of the
deceased sole respondent Viz V.V.
Ramasamy vide Court order dated June
21, 2024 made in CMP.No.6372 of
2024 in CRP.No.1851 of 2020.

Respondent(s)



PRAYER

This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, 1908 praying to set aside the fair and decretal Order dated December 14, 2018 passed in I.A.No.1088 of 2017 in O.S.NO.48 of 2006 on the file of the I Additional Sub Court, Coimbatore.

For Petitioner(s): Mr.K.Govi Ganesan

For Respondent(s): Mr.S.Mukunth Senior Counsel
Assisted by Mr.A.Parthasarathy for R2 & R3

ORDER

Aggrieved by the dismissal Order passed in I.A.No.1088 of 2017 in O.S.No.48 of 2006 on the file of “the first Additional Sub Judge, Coimbatore” (“Trial Court” for short), the Petitioners therein has filed this Civil Revision Petition.

2. The Revision Petitioners are the Defendants and the 1st Respondent herein are the Plaintiff in O.S.No.48 of 2006. During the pendency of this Civil Revision Petition, the 1st Respondent/Plaintiff namely V.V.Ramasamy passed away. Hence, his Legal Heirs/Legal Representatives are brought on Record as Respondents 2 and 3.

3. For the sake of convenience and clarity, the parties will be hereinafter be referred to as per their array in the Original Suit.



4. The Plaintiff filed a suit for specific performance of the sale agreement dated July 16, 2004. In the said suit an *ex-parte* decree was passed on August 31, 2016. The Defendants has filed a petition under Section 5 of Limitation Act, 1963 praying to condone the delay of 398 days in filing a petition to set aside the *ex-parte* judgment and decree, in I.A.No.1088 of 2017.

5. The Trial Court after hearing both sides dismissed the Interlocutory application.

6. Feeling aggrieved, the Petitioners therein has filed this Civil Revision Petition under Section 115 of Code of Civil Procedure, 1908.

7. Mr.K.Govi Ganesan, Learned Counsel appearing for the Revision Petitioners/Defendants submits that the first defendant passed away on March 26, 2007 and the other Petitioners shifted their residence, therefore the Revision Petitioners were not able to give instructions to their Counsel, leading the suit to be decreed *ex-parte*. Accordingly, he prays to allow the Civil Revision Petition and set aside the order passed by the Trial Court and allow the Interlocutory Application in I.A.No.1088 of 2017.

8. Per contra, Mr.Mukunth, Learned Senior Counsel appearing for the Respondents submits that the suit was filed in the year 2006 and the reasons



stated in the affidavit are not sufficient. He further submits that pursuant to the decree passed by the Trial Court, the 1st Respondent/Plaintiff deposited the balance sale consideration, filed execution petition and sale deed was executed by the Trial Court. In view of the facts and circumstances of the case, allowing this Civil Revision Petition would cause great prejudice to the Respondents, accordingly he prays to dismiss the Civil Revision Petition and sustain the order passed by the Trial Court.

9. This Court has considered the both sides submission and also perused the plaint, written statement, petition and affidavit filed in support of the same.

10. On perusal of the documents, it can be discerned that the Defendants filed a written statement in the Original suit wherein they admitted the execution of the sale agreement. Furthermore the reasons assigned for the delay as stated in the affidavit are not satisfied. After considering the entire facts and circumstances of the case, the Trial Court rightly dismissed the Interlocutory Application. There is no warrant to interfere in it. Hence, this Court is inclined to dismiss the Civil Revision Petition and sustain the Order passed by the Trial Court in the Interlocutory Application.



11. Accordingly, this Civil Revision Petition is dismissed.

Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

04-12-2025
(1/2)

jai
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

To
The I Additional Sub Court,
Coimbatore.



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R.SAKTHIVEL, J.

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