



CRP No. 1295 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 02.07.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CRP. No.1295 of 2020

1. M. Mahadeva Reddy

2. Monalisa Reddy

... Petitioners

Vs.

1. K. Kaja Mohideen

2. Kathoon Bivi

3. Sahul Hameed

4. Rafi Ahamed

5. Basheer Ahamed

6. Balasubramanian

7. Syed Gani

Mary (deceased)

8. Gnanamani

9. Jayamani

10. Elizabeth

11. Geetha

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12. Amutha
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13. Sangeetha Raj

14. Sundar Raj

15. The Commissioner,
Ambathur Municipality,
Chennai 600 040.

16. The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai 600 008.

17. The Executive Engineer,
Tamil Nadu Electricity Board,
Ambathur Township
Ambattur, Chennai.

... Respondents

Prayer : Civil Revision petition has been filed under Article 115 of the CPC to set aside the fair and decreetal order dated 13.02.2019 made in I.A.No.905 of 2017 in O.S.No.32 of 2004 on the file of the District Munsif Court at Ambathur and allow the CRP.

For Petitioner : Mr. T. Srikrishna Bhagavat
for Mr.P.Subba Reddy

For respondents : R1 to R5 no appearance
: R6, R8 to 17 given up

(remained exparte in the trial Court.)



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ORDER

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2. The suit has been originally filed for declaration and recovery of possession. When the suit was listed for trial on 06.01.2017, as the counsel did not appear on that date, the suit was dismissed for default. Thereafter, the application has been taken up by the plaintiff to restore the suit with a delay of 115 days. The reason assigned by the plaintiff for the delay is that since CRPs were pending before this court as against the order passed in the interlocutory applications, they could not file an application immediately. The Trial Court, however, was of the view that there was no interim order or stay granted by the revision court, which may not be a proper ground, and not being satisfied with the explanation for each day's delay, dismissed the application.

3. Notice was served to the respondents 1 to 5, the main contestants,



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others are only made as a formal parties, who are also remained exparte in the suit.

4. Heard both sides and perused the materials available on records carefully.

5. Having regard to the nature of the suit filed for declaration and recovery of possession, and even assuming that there was some negligence on the part of the party in conducting the case, the Trial Court ought to have shown a liberal approach in condoning the delay. This Court has repeatedly held that even if some negligence was due to the party or counsel, same itself is not a ground to deny substantive right. The suit is sought to be restored within a period of 115 days, and it is not an enormous delay. The suit has been filed for declaration and recovery of possession. When a person comes to the Court to assert his rights in immovable property, merely because of his negligence at some point in time his right cannot be totally shut in respect of the immovable property. Further, every decision of a civil court should normally be based on adjudication.

6. In such view of the matter, the Civil Revision Petition is allowed and



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the impugned order dated 13.02.2019 passed in I.A.No.905 of 2017 in

O.S.No.32 of 2024 on the file of the District Munsif Court, Ambattur, stands

set aside. No costs.

02.07.2025

mrp

To

The District Munsif Court,
Ambattur.



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N. SATHISH KUMAR, J.

mrp

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