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Review Application No.93 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 8/4/2025

C O R A M

The Hon'ble **Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

Review Application No.93 of 2025

a n d

C.M.P.No.9785 of 2025

N.M.Chitambaram ... Applicant

Vs

V.S.Muniyammal ... Respondent

PRAYER: Petition filed under Order XLVII Rules 1 & 2 r/w. Section 114 of the Code of Civil Procedure to review the order passed in C.R.P.No.530 of 2021 dated 9/2/2023.

For petitioner ... Mr.C.Prabakaran

For respondents ... Mr.S.Udayakumar

ORDER

The present petition has been filed to review the order passed by this Court in C.R.P. No.530 of 2021 dated 9/2/2023.



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2. This Court, vide order dated 9/2/2023, had passed the following order:-

“6. On a perusal of the records, it reveals that the respondent/plaintiff filed the suit for specific performance of the sale agreement, dated 21.04.2003 with regard to the suit property in favour of the plaintiff. The petitioner/defendant in her affidavit states that her younger son, by name Saravanan died on 05.10.2005. Due to her son's death, she could not appear before the trial Court and she could not contact her counsel. Therefore, the above delay has occurred. On the other hand, the aforesaid reason cited by the petitioner/defendant that owing to her son's sudden death, she was suffering from mental shock and depression is acceptable, which has not been considered by the trial Court.

7. On a perusal of the documents, it reveals that the trial Court erred in holding that the petitioner fails to prove



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the case by tendering oral evidence and documents. When the respondent did not dispute the fact that the petitioner was suffering from mental shock and depression due to the sudden death of her son, the trial Court ought to have allowed the petition seeking condonation of delay in filing the petition to set aside the ex-parte decree. The trial Court erred in holding that there is no explanation on the part of the petitioner as to why she has not taken any action to set aside the ex-parte decree even after having knowledge of it. The trial Court ought to have held that there is sufficient cause shown by the petitioner to condone the delay and the trial Court has not given sufficient opportunities to prove her case. Therefore, one more opportunity should be given to prove her case by letting evidence. Therefore, the trial Court has wrongly come to the conclusion and it warrants interference of this Court. Hence, this Court is inclined to allow the above Civil Revision Petition.

8. Accordingly, the Civil Revision Petition is allowed



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by setting aside the fair and decretal order dated 12.01.2012
in I.A.No. 643 of 2010 in O.S.No. 62 of 2006 on the file of
District Munsif Court, Tiruttani. No costs. Consequently,
connected Miscellaneous Petition is closed.

3. Heard Mr.C.Prabakaran, learned counsel for the applicant and
Mr.S.Udayakumar, learned counsel for the respondent.

4. The learned counsel appearing for the petitioner would submit that
there was a factual suppression by the revision petitioner that the applicant
had filed E.P.No.31 of 2009 and the same was allowed. Pursuant to that
sale deed was executed through Court on 9/9/2021 and the same was
registered as Document No.4113 of 2021, on the file of S.R.O., Tiruttani.
Based on the sale deed, review applicant had executed a settlement deed in
favour of his son on 30/10/2023 on the file of S.R.O., Tiruttani, vide,
document No.5288 of 2023. Thus the entire decree was executed and C.R.P
had become infructuous as early as on 9/9/2021.

5. Perused the materials available on record.



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6. The trial Court had dismissed the I.A., on 12/1/2012. It is an admitted fact that C.R.P., was filed on 1/10/2012 with a delay of 76 days and the same was numbered in the year 2016 with a delay of 4 years and subsequently, delay in filing was allowed and C.R.P was numbered only in the year 2021 and C.R.P was allowed by setting aside the fair and decreetal order dated 12/1/2012 in I.A.No.643 of 2010 in O.S.No.62 of 2006 on the file of the District Munsif Court, Tiruttani. In such a view of the matter, this Court directs the learned District Munsif, Tiruttani, to complete the trial and dispose of the case of the petitioner, on or before 30th November, 2025.

7. Accordingly, this Review Application is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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mvs.

Index: Yes/No

Neutral Citation: Yes/No



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mvs.

To

The District Munsif, Tiruttani.

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