

C.R.P.(MD)No.547 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.547 of 2022

Christhava Munnetta Sangam,
rep. by its Secretary,
Nelliyarkonam, Eraniel Village,
Kalkulam Taluk,
Kanyakumari District.

... Petitioner/Petitioner/Appellant/
Plaintiff

Vs.

1.Nagendran

2.Thangaswamy

3.Saroja Thirumal

4.T.S.Unni sankkar

5.T.S.Susipriya

... Respondents/Respondents

/Respondents/Defendants 2 to 6

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to call for the records relating to the fair and decreetal order passed by the learned Sub Court, Eraniel, in I.A.No.123 of 2019 in A.S.SR.No.2359 of 2014, dated 11.12.2020 and set aside the same.



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C.R.P.(MD)No.547 of 2022

For Petitioner : Mr.A.Balakrishnan

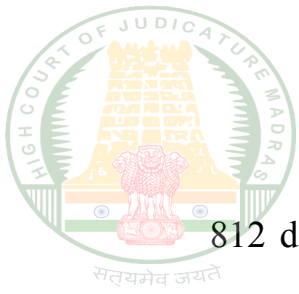
For Respondents : Mr.N.Dilipkumar

ORDER

This revision petition has been filed to set aside the fair and decreetal order passed by the learned Sub Court, Eraniel, in I.A.No.123 of 2019 in A.S.SR.No.2359 of 2014, dated 11.12.2020.

2.The facts in brief:

Suit in O.S.No.96 of 2001 was filed by the Christhava Munnetta Sangam, rep. by its Secretary, Nellyarkonam, Eraniel Village, Kalkulam Taluk, Kanyakumari District, against three persons seeking the relief of permanent injunction restraining the defendants and their men from trespassing into the schedule property and for costs. The written statement was filed by the defendant. After full trial, suit was dismissed without any cost. Against which, the plaintiff wanted to prefer appeal. In preferring the appeal, there was a delay of 812 days. To condone the delay I.A.No.123 of 2019 was filed, by the present Secretary stating that due to the change of Executive member and lack of knowledge over the issue they were unable to file the appeal in time. So there is a delay of



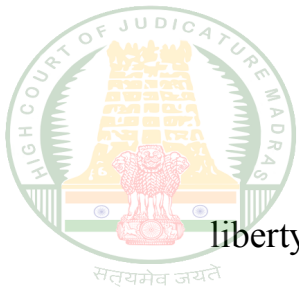
C.R.P.(MD)No.547 of 2022

812 days. The above said application was dismissed by the order dated 07.12.2020.

3. Against which this revision is preferred.

4. Heard both sides.

5. Reading of the affidavit does not indicate the relevant facts namely the date of expiry of the period of Executive Members. The date of election of the new Executive members, the date of knowledge about the suit facts, were not properly set out in the affidavit. It is nothing but an affidavit bereft of proper particulars, exactly on that ground the appellate Court dismissed the petition. Now it is seen that the mistake was committed by the concerned Advocate, who drafted the affidavit on behalf of the petitioner. He would have advised the revision petitioner to give proper particulars. So because of the non furnishing of proper informations petition itself has been dismissed depriving the revision petitioner's right to file appeal. Therefore, I am of the considered view that the matter may be remitted back to the appellate Court with the



C.R.P.(MD)No.547 of 2022

liberty to the petitioner to file proper affidavit. So that the matter can be disposed of afresh.

6.In view of the above, the above said order passed by the appellate Court is set aside. The matter is remitted back to the appellate Court namely the Sub Court, Eraniel. The appellate Court is directed to restore the petition on file granting opportunity to the revision petitioner to file proper and better affidavit and of course additional counter be filed by the respondent herein and dispose of the matter on its own merits, after hearing both sides.

7.With the above said directions, this civil revision petition stands disposed of. No costs.

20.02.2025

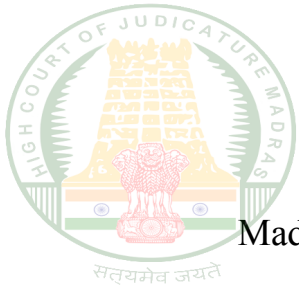
NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Subordinate Judge, Eraniel.

2.The Section Officer,
E.R.Section/V.R.Section,

4/6



C.R.P.(MD)No.547 of 2022

Madurai Bench of Madras High Court, Madurai.

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C.R.P.(MD)No.547 of 2022

G.ILANGO VAN,J.

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C.R.P.(MD)No.547 of 2022

20.02.2025