



C.R.P.(MD)No.804 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.804 of 2024
and C.M.P.(MD).No.4510 of 2024

1. John Robert Singh
2. Nanci

... Petitioners/Appellants/Defendants

Vs.

1. Mary Malarvizhi
2. Gnanalatha
3. Sheeba Agnus Mary
4. Suja Gilara Selin
5. Esther Merlin Shoba

... Respondents/Respondents/Plaintiffs

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order passed in I.A.No.1 of 2021 in ASSR.No.3167 of 2021, dated 06.09.2022 on the file of the Subordinate Court, Kuzhithurai.

For Petitioners : Mr.S.C.Herold Singh

For Respondents : No Appearance



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ORDER

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This civil revision petition has been filed to set aside the order passed in I.A.No.1 of 2021 in ASSR.No.3167 of 2021, dated 06.09.2022 on the file of the Subordinate Court, Kuzhithurai.

2.The facts in brief:

Suit in O.S.No.19 of 2010 was filed by the respondent herein against the revision petitioner seeking the relief of partition, separate possession of their 5/6th share and cost. Suit was decreed as prayed for by the judgment and decree dated 13.02.2014.

3.Against which the revision petitioner intend to file appeal. In filing the appeal there is a delay of 2163 days. To condone the delay an application was filed under Section 5 of the Limitation Act stating that he was working in Quilon in Kerala. Originally he was appointed in Trivandram. After transfer he shifted his residence to Trivandram. At that time, the documents were put in a suitcase. But it was missing. He was tracing out the suitcase for about 6 years. Only after much effort, on 18.01.2020, he was able to recover the relevant documents. So there is a



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delay.

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4.That was resisted by the respondent herein by filing counter stating that no proper reasons are assigned and even the reasons assigned in the affidavit are not acceptable.

5.The appellate Court by the impugned order dismissed the petition finding that the delay is inordinate and it was not properly explained. Against which this revision is preferred.

6.Though, the respondents entered appearance through Advocate, failed to appear at the time of hearing. So revision petitioner was heard.

7.Suit for partition and separate possession was filed in the year 2010. It was simple suit for partition and separate possession. Suit was decreed as prayed for as mentioned above by the judgment and decree dated 13.02.2014. It is a Judgment on merits. Now the revision petitioner simply says that he was unable to prosecute the appeal in time, because of the loss of the documents kept in suitcase. No doubt, that we cannot



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expect any proof for the loss of suitcase and documents. But, that did not prevent him from filing the appeal in time by getting certified copies of the relevant documents. The reason must be reasonable, acceptable. Vague reasons cannot be accepted. So I find absolutely no valid reason.

8.The final decree application was filed in I.A.No.148 of 2017. He entered appearance and filed counter on 01.02.2018. The Commissioner was appointed in the final decree application and he filed his report on 16.02.2019. Having known all those events he remained silent without filing appeal. Later, the revision petitioner's son filed a suit in O.S.No. 153 of 2019 showing the revision petitioner as the second defendant. So the dates and events also does indicate that revision petitioner was aware of the final decree proceedings. Only at the fag end of the final decree proceedings to defeat the decree or delay the proceedings, the application has been filed, which, as mentioned above, is not properly and reasonably explained. So, I find no reason to entertain this petition.

9.In view of the above, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is



closed.

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20.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

- 1.The Subordinate Judge, Kuzhithurai.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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