



C.R..P.(PD)(MD).No.988 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.988 of 2025

and

C.M.P(MD) No.5311 of 2025

1. Appasamy

2. Ramakrishnan

3. Govindasamy

4. Rajagopal

... Petitioners/
Respondents 1 to 4/
Plaintiffs

Vs.

Mahadevi

... Respondent/8th Petitioner
/8th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to allow this Civil Revision Petition setting aside the fair order and decreetal order of District Munsif Court, Pattukottai in I.A.No.2 of 2022 in O.S.No.22 of 2010, dated 01.11.2023 with cost.



C.R..P.(PD)(MD).No.988 of 2025

WEB COPY

For Petitioners : Mr.N.Balakrishnan

ORDER

The plaintiffs in O.S.No.22 of 2010 on the file of the District Munsif Court, Pattukottai, have filed the present Civil Revision Petition challenging the allowing an application filed by the 8th defendant under Order 9 Rule 7 of C.P.C.

2. A perusal of the records reveal that the suit has been filed for the relief of specific performance and for recovery of possession. The 8th defendant in the suit has been set *ex parte* on 16.02.2012. She has filed I.A.No.2 of 2022 seeking to set aside the *ex parte* order. The said application has been allowed by the trial Court on payment of a cost of Rs.1,500/- (Rupees One Thousand and Five Hundred only). This order is put to challenge in the present Civil Revision Petition.



C.R..P.(PD)(MD).No.988 of 2025

WEB COPY

3. According to the learned counsel appearing for the revision petitioners, the 8th defendant was set *ex-parte* in the year 2012. The present application has been filed after a period of 10 years. He relied upon the judgment of this Court reported in **2015 (5) CTC 67 (Visalakshi Vs.Umapathy)** to contend that for an application filed under Order 9 Rule 7 of C.P.C., Article 137 of Limitation Act, is applicable and therefore, the application filed beyond a period of three years should not have been entertained by the trial Court.

4. The learned counsel appearing for the revision petitioners further contended that the other defendants in the suit are the siblings of the 8th defendant and they have remained *ex parte*. From them the 8th defendant would have received information about the pendency of the suit. Therefore, the 8th defendant cannot now contend that she was not aware of the pendency of the suit for specific performance.

5. Heard the learned counsel appearing for the petitioners and perused the materials available on record.



C.R..P.(PD)(MD).No.988 of 2025

WEB COPY

6. A perusal of the records reveal that the 8th defendant is residing in Australia atleast from the year 2005 onwards. When the summons were attempted to be served they were returned with an endorsement that she has left for Australia five years back. Therefore, paper publication has been effected in the said locality and based upon the said paper publication the 8th defendant has been set *ex parte*. Therefore, it is clear that the 8th defendant was not served with the summons and while she was in Australia, paper publication has been effected in Tamil Nadu. In such circumstances, the trial Court has rightly allowed the said application.

7. As far as the reliance based upon the judgment reported in **2015 (5) CTC 67 (Visalakshi Vs.Umapathy)** is concerned, the three years period has to be calculated from the date of knowledge. In such circumstances, the 8th defendant having contended that she came to know only recently when she came to India, the said judgment is not applicable to the facts of the present case.



C.R..P.(PD)(MD).No.988 of 2025

WEB COPY

8. In view of the above said facts there are no merits in the revision petition. Accordingly, this Civil Revision Petition stands dismissed with a direction to the trial Court to dispose of the suit in O.S.No.22 of 2010 on or before **31.12.2025**. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

27.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The District Munsif Court,
Pattukottai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(PD)(MD).No.988 of 2025

R.VIJAYAKUMAR,J.

ebsi

C.R.P(PD)(MD)No.988 of 2025

27.03.2025