



C.R..P.(PD)(MD).No.320 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.320 of 2022

and

C.M.P(MD) No.1394 of 2022

1. Jeyam

2. Geetha

... Petitioners/
Petitioners/
Defendants 1 and 3

Vs.

1. Hemavathi

... Respondent/
Respondent/Plaintiff

2. Devika

3. Amuthavalli

4. Shanmugapriya

... Respondents/
Respondents/
Defendants 2, 4 and 5

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 27.09.2021, passed in I.A.No. 134 of 2019 in O.S.No.438 of 2012, on the file of the learned Additional Sub Judge, Puthukkottai.



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C.R..P.(PD)(MD).No.320 of 2022

For Petitioners : Mr.S.Ayyanar Prem Kumar

For R1 : Mr.G.Sridharan

For R2 to R4 : No appearance

ORDER

The defendants 1 and 3 in O.S.No.438 of 2012 on the file of the Additional Sub Court, Puthukkottai, have filed the present Civil Revision Petition, challenging the dismissal of their application filed under Section 5 of Limitation Act, to condone the delay of 1825 days in filing an application under Order 9 Rule 13 of C.P.C.

2. A perusal of the records reveal that the first respondent in the revision petition has filed the above said suit for the relief of partition and separate possession. An *ex parte* preliminary decree came to be passed on 17.02.2014. The plaintiff had filed I.A.No. 391 of 2014 for passing of final decree. In the final decree application, the revision petitioners have appeared through counsel on 07.08.2014. The Advocate Commissioner has inspected the properties on various dates between January 2016 and July 2016. The Advocate Commissioner has filed his report on 20.09.2016.



C.R..P.(PD)(MD).No.320 of 2022

WEB COPY

3. The revision petitioners herein have filed I.A.No.450 of 2016 to set aside the report of the Commissioner. The said application was dismissed for default. Thereafter, the Court has passed final decree on 24.08.2018. The defendants 1 and 3 have filed application in I.A.No.134 of 2019 on 03.07.2019 to condone the delay of 1825 days in filing an application to set aside the *ex parte* preliminary decree. This application came to be dismissed. Challenging the same, the present Civil Revision Petition has been filed.

4. The narration of the above said facts will clearly indicate that the final decree, passed on 24.08.2018, has not yet been challenged and it has been reached at finality. In such circumstances, the question of reopening the preliminary decree and that too, with a delay of 1825 days does not arise and there are no merits in the Civil Revision Petition.



C.R..P.(PD)(MD).No.320 of 2022

WEB COPY

5. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

07.03.2025

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

1. The Additional Sub Court,
Puthukkottai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(PD)(MD).No.320 of 2022

R.VIJAYAKUMAR,J.

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C.R.P(PD)(MD)No.320 of 2022

07.03.2025