



C.R..P.(NPD)(MD).No.1015 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.1015 of 2025

and

C.M.P(MD) No.5486 of 2025

Raavaneswaran

... Petitioner/
3rd Party/3rd Party

Vs.

1.Ramakrishnan

... 1st Respondent/Petitioner
/ 7th Defendant

2. Nagarajan

3. Amuthavalli

4. Jeyalakshmi

Nagalakshmi (died)

5. S.Senthilkumar

6. Minor Nithiga

... Respondents 2 to 6/
Respondents 2 to 6/
Plaintiffs

(6th Respondent represented through
her father and next friend 5th respondent)



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PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to set aside the order passed in I.A.No.05 of 2022 in O.S.No.25 of 2009, on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur, dated 10.12.2024 by allowing this Civil Revision Petition.

For Petitioner : Mrs. Jessi Jeeva Priya

ORDER

A third party to O.S.No.25 of 2009 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur, has filed the present Civil Revision petition challenging the dismissal of an application filed by the 7th defendant to condone the delay of 2226 days in filing an application to set aside the *ex parte* decree.

2. A perusal of the records reveal that the respondents 2 to 6 herein as plaintiffs have filed the above said suit for the relief of partition and separate possession. The seventh defendant had remained *ex parte*, and an *ex parte* decree came to be passed on 27.07.2016. The decree holder has filed I.A.No.1 of 2022 for passing of final decree.



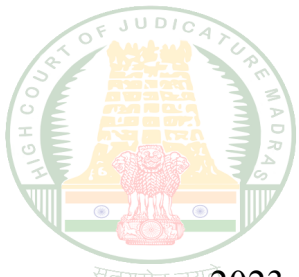
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3. The 7th defendant has sold the fourth item of suit schedule property to the revision petitioner herein on 14.09.2022, while the final decree application was pending. Thereafter, the 7th defendant had filed I.A.No.5 of 2022 on 30.09.2022 to condone the delay of 2226 days in filing the application to set aside the *ex parte* decree. When I.A.No.5 of 2022 was pending, third party purchaser had filed I.A.No.8 of 2023 to get himself impleaded in I.A.No.5 of 2022. This I.A.No.8 of 2023 was dismissed by the trial Court on 04.10.2023. Challenging the dismissal of the impleading application, the revision petitioner herein has filed C.R.P(MD) No.3206 of 2023. The said revision petition was dismissed by this Court on 09.02.2024 with an observation that the revision petitioner herein is an unnecessary party to I.A.No.5 of 2022.

4. The present Revision Petition has been filed by the purchaser from the 7th defendant directly challenging the order passed in I.A.No.5 of 2022.

5. According to the learned counsel appearing for the revision petitioner, this Court has made an observation in C.R.P(MD) No.3206 of



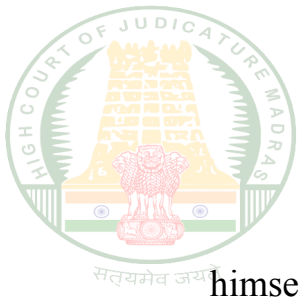
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2023 granting liberty to the revision petitioner to establish his right independently at an appropriate time through proper proceedings. Therefore, the present revision petition has been filed after obtaining leave of this Court. It is further contended that the first defendant had passed away even before passing of preliminary decree and therefore, there is no chance for getting himself impleaded in the final decree proceedings. The rights of the purchaser from the 7th defendant would get affected, in case if he gets impleaded himself as a defendant in the suit, without challenging the preliminary decree.

6. Heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

7. The first defendant in the suit for partition has sold the property in favour of the 7th defendant pending suit. The 7th defendant in turn had sold the property in favour of the revision petitioner when the final decree proceedings were pending. In such circumstances, it is clear that the petitioner being a *pendente lite* purchaser would be bound by the preliminary decree. The only option open to the purchaser from the 7th defendant is to get



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himself impleaded in the final decree proceedings to workout his remedy. In case, if any property is allotted in favour of the first defendant, the same could be allotted in favour of the revision petitioner herein on payment of appropriate Court fee. Therefore, the petitioner cannot challenge the dismissal of condone delay application.

8. With the above said observation, this Civil Revision Petition is disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

01.04.2025

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

1. The Principal District and Sessions Court,
Virudhunagar at Srivilliputhur
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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