



CRP(MD). No.179 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 01/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.179 of 2022
and CMP(MD) No.793 of 2022**

Maria John Joseph

... Petitioner

Vs

1. Mariammal Nattachi (Died),
2.Raja Moyesan,
Kollam Kotta Vila,
Kadaman Kuzhi,Parambukarai,Alanchi Post,
Keelmidalam Village,Vilavancode Taluk,
Kanyakumari District..

2. Raja Moyesan,
Kollam Kotta Vila,Kadaman Kuzhi,
Parambukarai,Alanchi Post,Keelmidalam
Village,Vilavancode Taluk,Kanyakumari
District..

3. Prince,
Kollam Kotta Vila,Kadaman Kuzhi,
Parambukarai,Alanchi Post,Keelmidalam
Village,Vilavancode Taluk,
Kanyakumari District..

4. Eppapress

5. Marya Siluvai

1/6



CRP(MD). No.179 of 2022

6. Marya Thangam

7. Mariya Micheal

8. Arockiam

9. Maria Glory

... Respondents

PRAYER :-Civil Revision petition filed Under Article 227 of the Constitution of India, against the preliminary decree dated 11-11-2003 and final decree dated 08.07.2007 passed in IA No.397/2006 in O.S. No. 158/2001 on the file of Additional District Munsif, Padmanabapuram confirmed in AS No.13/2004 on the file of the Sub Judge, Padmanabhapuram.

For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.SC.Herold Singh for R2 and R3

No appearance for R4 to R9

R1 died

ORDER

The Civil Revision Petition is filed against the preliminary decree dated 11-11-2003 and final decree dated 08.07.2007 passed in IA No. 397/2006 in O.S. No.158/2001 on the file of Additional District Munsif, Padmanabapuram confirmed in AS No.13/2004 on the file of the Sub Judge, Padmanabhapuram.



CRP(MD). No.179 of 2022

2. The learned counsel for the petitioner would submit that the petitioner is the first defendant in OS No.158/2001. The first respondent/deceased filed the suit for partition in OS No.158/2001 on the file of the District Munsif, Padmanabhapuram and preliminary decree was passed on 11.11.2003 and against the preliminary decree, the petitioner preferred an appeal before the lower appellate Court in AS No. 13/2004 on the file of the Sub Judge, Padmanabhapuram and the same was dismissed on 26.07.2005 by confirming the preliminary decree granted by the Court. Thereafter the respondent/plaintiff filed IA No. 397/2006 for passing final decree in OS No.158/2001 and final decree was passed on 08.08.2007. Challenging the same, the present Revision Petition is filed with a delay of 15 years.

3. The learned counsel for the petitioner would submit that the petitioner is suffering from health ailments and hence, he is not able to prefer an appeal against the judgment and decree in the appeal suit by way of second appeal and hence, pursuant to the final decree, they immediately taken steps to demarcate the property and share metes and bounds of the property and second appeal has been filed with a delay



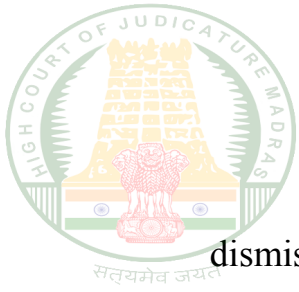
CRP(MD). No.179 of 2022

condonation petition to condone delay of in filing the second appeal and the said appeal was dismissed at the SR stage itself on 05.09.2017.

4. The learned counsel for the respondents would submit that admittedly preliminary decree was passed on 11.11.2003 in OS No. 158/2001 on the file of the Additional District Munsif, Padmanabhapuram and the same was confirmed in AS No.13/2004 on the file of the Sub Judge, Padmanabhapuram, on 26.07.2005 and thereafter final decree was passed on 08.08.2007 in IA No.397/2006 and when the petitioner challenged the preliminary decree in appeal and the lower appellate Court dismissed the same, the petitioner is not entitled to challenge the final decree proceedings, which is impermissible.

5. I have considered the rival submissions and perused the materials available on record.

6. When the petitioner is having effective alternative appeal remedy, stalling the final decree proceedings by filing the Civil Revision Petition is not sustainable. Accordingly, the Civil Revision Petition is



CRP(MD). No.179 of 2022

dismissed and liberty is granted to the petitioner to work out his remedy in the manner known to law. No costs. Consequently connected Miscellaneous Petition is closed.

01.07.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The Additional District Munsif,Padmanabapuram

2.VR Section

Madurai Bench of Madras High Court, Madurai.



WEB COPY



CRP(MD). No.179 of 2022

M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.179 of 2022**

Date : 01/07/2025