

CRP(MD). No.412 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 02/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRP (MD). No.412 of 2022

Muthappan

... Petitioner

Vs

1. Supputhai

2. Perumal Samy

3. Karuppasamy

4. Centraj

5. Ramar

6. Lakshmanan

... Respondents

PRAYER :-Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order in I.A.No. 76 of 2021 In O.S. No. 44 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Vilathikulam dated 26.11.2021.

For Petitioners : Mr.S.Vishnuvardhan

For Respondents : Mr.M.M.Manivelpandian



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ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 26.11.2021 in I.A.No. 76 of 2021 In O.S. No. 44 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Vilathikulam.

2. The petitioner is the 2nd defendant in OS No.44/2011 and the said suit was decreed exparte on 09.03.2012. The petitioner has filed the application in IA No.76/2021 to set aside the exparte decree. The said application was filed in the year 2021 with a delay of 3271 days and the same was dismissed. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is the 2nd defendant in the above suit. The respondents/plaintiffs filed the suit for declaration and the suit was decreed in their favour in the year 2012. However, the petitioner suffered a paralysis attack and he is not able to move and hence, he could



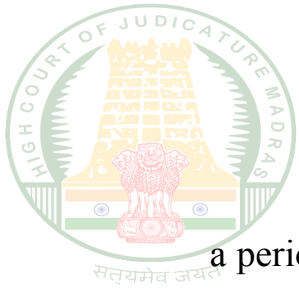
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not file an application in time. Hence, prays for setting aside the dismissal order.

4. Per contra, the learned counsel for the respondents would submit that the petitioner/2nd defendant did not have any title over the property and the respondents/plaintiffs are the owner of the property and in order to grab the property, he interfered with the suit schedule property and hence, the suit was filed, which was decreed exparte on 09.03.2012 and set aside petition was filed after a delay of nine years. The trial Court, considering the enormous delay dismissed the petition and hence, no interference is warranted.

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

6. It is seen that the suit was filed in the year 2011 and the same was decreed exparte on 09.03.2012. The respondents being the judgment debtor ought to have filed the petition to restore the suit and to set aside the exparte decree within time. However, the petitioner having slept for



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a period of nearly ten years filed the petition to restore the suit and to set aside the exparte decree only in the year 2021. The delay has also not been properly explained and hence, the trial Court has rightly dismissed the application. Therefore, no interference is warranted to the order of the trial Court. Accordingly, the Civil Revision Petition is dismissed. No costs.

02.07.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The District Munsif cum Judicial Magistrate Court, Vilathikulam

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.412 of 2022**

Date : 02/07/2025