

C.R.P.(MD)No.426 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.426 of 2020

S.A.Ramanathan Nattar (Died)

R.Mahesh Raja

... Petitioner/2nd Petitioner/2nd Plaintiff

Vs.

Sivasubramania Nattar (Died)

1.Thangaraj

Chinnadurai (Died)

Durairaj (Died)

2.Arumugam

Palaniyandi (Died)

3.Sakthivel

4.Shanmugam

5.Jeyaraman Nattar

6.Swaminathan Nattar

7.Siva @ Murugan

8.Minor Seenii @ Devadoss

9.Minor Nabi @ Manikandan

10.Minor Ilayaraja @ Raja

(Minor Respondents 8 to 10 represented through their father / Natural guardian)

Aththal @ Navaneetham (Died)

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Alagan Mooppan (Died)

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Marudhai Mooppan (Died)

12.Omandhu

13.Selvamani

14.Suppan

15.Moorthy

16.Arulmigu Pidari Azhagunachiyamman,

Rep. by its Trustee,

Melaseedevi Mangalam Village,

Mannachanallur Post,

Tiruchirappalli District.

17.Arulmigu Pillaiyar,

Rep. by its Trustee,

Mannachanallur Post,

Melaseedevi Mangalam Village,

Mannachanallur Taluk,

Tiruchirappalli District.

18.Arulmigu Sappani Karuppu,

Ottakudi Village, Trichy Taluk,

Tiruchirappalli District,

Melaseedevi Mangalam Village,

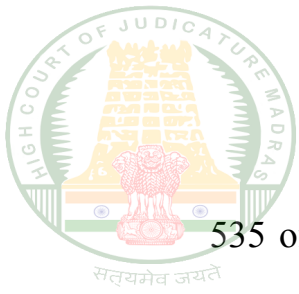
Mannachanallur Taluk,

Tiruchirappalli District.

19.Angamuthu

... Respondents/Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to call for the records relating to the fair order and decretal order, dated 14.11.2019 made in I.A.No.1 of 2019 in O.S.No.



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535 of 1986 on the file of the Subordinate Judge, Lalgudi and set aside the same.

For Petitioner : Mr.C.Mahadevan for
Mr.C.Gobinath

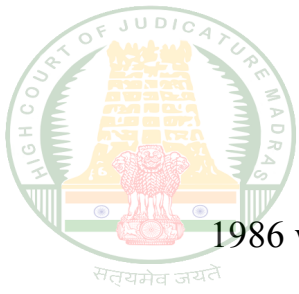
For Respondents : Mr.P.Arun Jayatran for R1
Mr.I.Vel Pradeep for R11

ORDER

This civil revision petition has been filed to set aside the fair order and decretal order, dated 14.11.2019 made in I.A.No.1 of 2019 in O.S.No.535 of 1986 on the file of the Subordinate Judge, Lalgudi.

2.The facts in brief:

Suit in O.S.No.535 of 1986 was filed by the deceased Ramanathan Nattar against the respondent herein, seeking the relief of partition and separate possession of his 7/36th share, permanent injunction, restraining the defendants namely some of the defendants from interfering with the plaintiff's joint possession. That suit was dismissed for default on 09.09.2002. The second defendant in the above said suit filed O.S.No. 690 of 1996 against Ramanathan Nattar for permanent injunction. Even though joint trial was ordered, as noted, the above suit in O.S.No.535 of



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1986 was dismissed for default. He proposed to file petition to restore the suit. He was informed that suit records are missing in the court.

Complaint was sent by the plaintiff and after that only records were traced out. So there is a delay of 2874 days. To condone the delay he has filed application under Section 5 of the Limitation Act. Pending the application he died. So his son was brought on record as second petitioner.

3.Counter was filed by the respondent Ramanathan Nattar. Even in 1986 a suit for partition was filed. It was dismissed. Against which, appeal was preferred. In the appeal there was a finding that the properties were separate properties of Arumuga Nattar. So the plaintiff did not have any right over the property. Based upon the above said Judgment Arumuga Nattar executed settlement deed in favour of the second respondent namely Thangaraj, (who is the first respondent herein) on 20.06.1979. On the very same day, he executed a Will. On that basis he has filed a suit in O.S.No.1106 of 1980 for declaration and permanent injunction. It was decreed.



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4.Regarding the delay, no proper reason was assigned. The other respondents filed counter disputing the reason.

5.The trial Court after considering the conduct of the revision petitioner dismissed the petition. Against which, this revision is preferred. Two reasons are assigned by the deceased revision petitioner. One is that the counsel who was appearing for him died and there was no communication from his office. For which, absolutely, there is no evidence, not even affidavit from the office of the concerned Advocate. But, reading of the order of the trial court shows that during evidence the petitioner namely the deceased petitioner stated that his Advocate died on 12.09.1995 itself. After the death of his counsel by name Venkatraman another Advocate by name Muralidaran was appointed. On that ground the first reason was not accepted by the trial Court. The reason mentioned by the deceased petitioner is factually in correct. So that was rightly rejected by the trial court.

6.Now quite contra to the above said ground, he had taken another ground that his Advocate did not inform him about the date of hearing. It



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is the duty of the deceased petitioner to contact his Advocate in periodical manner to know about the stage. He cannot blame the Advocate for the non communication. So this ground was rightly rejected by the trial Court. Since the reasons given by the deceased petitioner is contrary, it was rightly rejected by the trial Court.

7. Even during the course of argument by the revision petitioner no substantial reason was able to assigned. Since the reasons stated by the deceased petitioner are factually incorrect, I am of the considered view that no interference is called for in the order of dismissal passed by the trial Court. Therefore, this Court is not inclined to entertain the revision petition.

8. Accordingly, this civil revision petition stands dismissed. No costs.

9. After disposing this petition, the learned counsel for the petitioner would submit that by way of this order the right of the present revision petitioner namely R. Maheshraj, who was brought on record



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subsequent to the death of his father to claim partition in the suit property should not be prevented. But, I am unable to make any observation in this regard. If the present revision petitioner namely R.Mahesh Raja, got any right over the property, the dismissal of this revision will not bar his right to be ventilated in any form. It appears that this request is made by the counsel on record for the revision petitioner on the ground that originally suit was filed by the deceased Ramanathan Nattar claiming 7/36 share in the property. After his death that right devolves upon him by inheritance. But, as mentioned above, I am not expressing any opinion on the right of the revision petitioner. But, as mentioned above, it is for him to pursue his remedy, if so advised and if got any subsisting interest. This dismissal order will not bar his right.

21.01.2025

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

- 1.The Subordinate Judge, Lalgudi.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGO VAN,J.

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