



C.R..P.(NPD)(MD).No.721 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.721 of 2025

and

C.M.P(MD) No.3841 of 2025

1. Shanmuganathan

2. Balan @ Balasubramaniyan

... Petitioners/
Respondents 1 and 2/
Defendants 1 and 2

Vs.

1. Karuppayi

2. P.Kanagaraj

3. P.Muniyammal

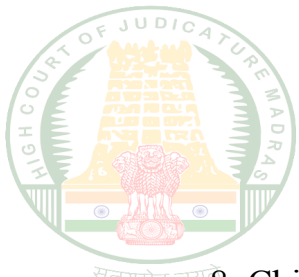
4. P.Panneerselvam

5. P.Muniyandi

6. P.Maheswaran

7. P.Raja

... Respondents 1 to 7/
Petitioners 1 to 7/
Plaintiffs 1 to 7



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C.R..P.(NPD)(MD).No.721 of 2025

8. Chinnan

... 8th Respondent/
3rd Respondent/
3rd Defendant

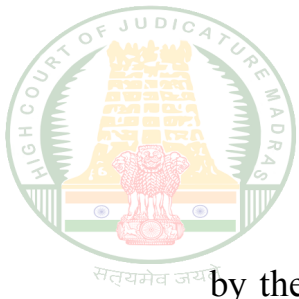
PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, challenging the order dated 03.02.2025 made in I.A.No.11 of 2024 in O.S.No.68 of 2018 on the file of the District Munsif, Theni, and to allow the above Civil Revision Petition.

For Petitioners : Mr.C.Jeganathan

ORDER

The defendants 1 and 2 in O.S.No.68 of 2018 on the file of the District Munsif Court, Theni, have filed the present Civil Revision Petition, challenging the order passed by the trial Court, wherein the trial Court has condoned the delay of 368 days in setting aside the abatement caused by the death of the sole plaintiff.

2. The said suit has been filed for the relief of permanent injunction. Pending suit, the sole plaintiff has passed away on 29.11.2022. The present application has been filed by the legal heirs of the plaintiff in I.A.No.11 of 2024 to condone the delay of 368 days in setting aside the abatement caused



C.R..P.(NPD)(MD).No.721 of 2025

WEB COPY

by the death of the sole plaintiff. The trial Court has proceeded to allow the said application on payment of cost of Rs.1000/- (Rupees One Thousand only). The cost has also been paid. However, the defendants have challenged the condone delay order primarily on the ground that suppressing the date of death of the sole plaintiff, one of the legal heirs of the plaintiff has filed I.A.No.9 of 2022 on 12.02.2022 seeking the relief of receiving the additional documents. The application came to be allowed on 07.03.2023.

3. Therefore, according to the learned counsel appearing for the revision petitioners, suppressing the death of the sole plaintiff such an order has been obtained and they are aware of the death of the sole plaintiff and therefore, the delay of 368 days should not have been condoned by the trial Court.

4. Considering the fact that the order in I.A.No.9 of 2022 dated 07.03.2023 is not challenged, this Court is not inclined to enter into that dispute. As far as condoning the delay of 368 days is concerned, the delay has occurred in setting aside the abatement caused by the death of the sole plaintiff. Considering the length of the delay, the trial Court has proceeded to



C.R..P.(NPD)(MD).No.721 of 2025

WEB COPY

allow the said application on payment of cost. When the trial Court has exercised its discretion in condoning the delay, this Court is not inclined to interfere in the said order and there are no merits in this Civil Revision Petition.

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

06.03.2025

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

1. The District Munsif,
Theni.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(NPD)(MD).No.721 of 2025

R.VIJAYAKUMAR,J.

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C.R.P(NPD)(MD)No.721 of 2025

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