



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.848 of 2025

and

C.M.P(MD)No.4508 of 2025

Devaanbu

...Petitioners/Petitioners/11th Defendant

Vs.

1.L.B.Manickam
2.Chandrasekaran
3.Gnanasekaran
4.Kunjithapatham
5.Jothikumar
6.Balaji
7.Kittappa
8.Baskar
9.Gengaiyammal
10.Meenakumari
11.Vigneswaran
12.Ishwarya

...Respondents 1&2/Respondents/Plaintiffs 1&2

*(Respondents 3 to 12 herein are given up
since they remained ex-parte before
lower Court)*

...Respondent 3 to 12 /Respondent 3 to 12/

Defendants 1 to 10

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 31.01.2025 made in I.A.No. 02 of 2024 in O.S.No.53 of 2012 on the file of the District Munsif Court, Lalgudi, and allow the Civil Revision Petition.

For Petitioner : Mr.S.Vinayak

For Respondent : Mr.B.Karthikeyan for R1



ORDER

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The 11th defendant in O.S.No.53 of 2012, on the file of the District Munsif Court, Lalgudi, has filed the present revision petition challenging dismissal of his application to condone the delay of 2644 days in filing an application to set aside the ex-parte decree.

2.A perusal of the records reveal that the suit had been filed for the relief of partition and separate possession. All the defendants had remained ex-parte and an ex-parte preliminary decree came to be passed on 08.02.2017. The plaintiff had filed I.A.No.1 of 2021, for passing of final decree. Pending final decree proceedings, the present application has been filed by the 11th defendant in the suit in I.A.No.2 of 2024, to condone the delay of 2644 days in filing an application to set aside the ex-parte decree. This application has been dismissed by the trial Court. Challenging the same, the present revision petition has been filed.

3.A perusal of the condone delay affidavit reveals that the 11th defendant was affected with Jaundice and he was taking native treatment and therefore, he could not give instructions to his Counsel. Other than the said reasons, no other legally acceptable reason have been placed on record. Apart from that, it is stated that the 11th defendant's daughter has passed away and therefore, he was



in depressive stage. These are the reasons stated in the affidavit for condoning the delay.

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4.The learned Counsel appearing for the respondent/plaintiff has brought to the notice of the Court that final order has already been passed on 10.03.2025.

5.Considering the reasons assigned in the condone delay affidavit, this Court is of the considered opinion that the reasons are not believable for the huge delay caused to set aside the ex-parte decree. Now the final decree has already been passed. In such circumstances, the question of reopening the preliminary decree cannot arise. However, it is open to the revision petitioner to challenge the final decree, if he is so advised.

6.With the above said observations, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

20.03.2025

Internet:Yes/No
Index:Yes/No
RJR



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C.R.P.(NPD)(MD)No.848 of 2



R.VIJAYAKUMAR, J.

RJR

To

The learned District Munsif, Lalgudi.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(NPD)(MD)No.848 of 2025

20.03.2025