



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.388 of 2021

and

C.M.P.(MD).No.2115 of 2021

1.Rajendran

2.Krishnamoorthi

...Petitioner

Vs.

1.K.Murugesan (Died)

2.Selvaraj

3.Sundararaj

...Respondents

(Respondent Nos.2 and 3 are brought on record as legal representatives of the deceased sole respondent vide Court order dated 24.06.2025 made in CMP(MD).Nos.18329 to 18331 of 2024 in CRP(MD).No.388 of 2021)

PRAYER: Civil Revision Petition is filed under Section 115 of CPC to allow the above Civil Revision Petition by setting aside the order dated 06.03.2020 passed in I.A.No.537 of 2019 in O.S.No.46 of 2008 on the file of the Sub court, Thuraiyur, Trichirappalli District.

For Petitioner

: Mr.P.Sivachandran

For R-3

: Mr.S.Anand Chandrasekar,
for M/s. Sarvabhauman Associates

* * * * *



ORDER

This Civil Revision Petition has been filed seeking orders to set aside the order dated 06.03.2020 passed in I.A.No.537 of 2019 in O.S.No.46 of 2008 on the file of the District Sub Court, Thuraiyur, Tiruchirappalli District.

2. The first respondent herein filed a suit in O.S.No.46 of 2008 before the Sub Court, Tiruchirappalli District, seeking specific performance of the alleged sale agreement dated 11.10.2004 as against the petitioners herein. The suit was decreed as *ex parte* on 14.06.2010. Thereafter, the petitioners filed an interlocutory application in I.A.No.537 of 2019 with a delay of 826 days seeking to set aside the *ex parte* decree passed by the trial Court. However, the said petition was dismissed on 06.03.2020. Challenging the said order, the present Civil Revision Petition has been filed.

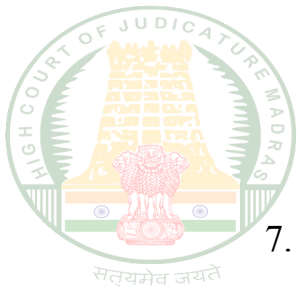
3. The learned counsel appearing for the petitioners would submit that the suit was admittedly filed in the year 2008 and the said suit was decreed as *ex parte* in the year 2010. However, steps were taken to file the interlocutory application in the year 2019, and the same came to be dismissed on 06.03.2020. He would further submit that the petitioners were unable to provide an adequate explanation for the delay, which formed the basis of the dismissal by the trial Court. Accordingly, he prays for allowing this petition.



4. The learned counsel appearing for the third respondent would submit that subsequent to the *ex parte* decree, a sale deed was executed in favour of the first respondent on 11.03.2016, and at the stage of delivery of possession, the present delay condonation petition was filed.

5. The facts of the case are not in dispute. The first respondent filed a suit seeking specific performance of a sale agreement for a total consideration of Rs.2,50,000/-, out of which Rs.2,00,000/- was paid by the first respondent and the balance amount was Rs.50,000/-. The suit was filed in the year 2008 and was decreed *ex parte* in 2010. The interlocutory application I.A.No.537 of 2019 was filed in the year 2019 and based on the *ex parte* decree, the sale deed was executed in favour of the first respondent.

6. Considering the facts and circumstances of the case, and in view of the fact that the sale deed was executed only on the basis of the *ex parte* decree, this Court is of the view that one more opportunity may be granted to the petitioners. Allowing the set-aside petition will not cause serious prejudice to the respondents. The Hon'ble Supreme Court and this Court have consistently held that delay in filing petitions should be considered liberally, especially when substantial justice is at stake.



7. In view of the above, this Court is inclined to allow the Civil Revision

Petition, subject to the following conditions:

i. The petitioners shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent Nos.2 and 3 towards costs within a period of two weeks from the date of receipt of a copy of this order.

ii. Upon production of proof of such payment, the trial Court is directed to number the set aside ex parte application and dispose of the same on merits and in accordance with law.

No costs. Consequently, the connected miscellaneous petition is closed.

14.07.2025

Internet: Yes/No

Index: Yes/No

TSG

To

1.The District Sub court, Thuraiyur, Trichirappalli District.

2.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



WEB COPY

C.R.P.(PD)(MD)No.388 of 2021



M.DHANDAPANI, J.

TSG

C.R.P.(PD)(MD)No.388 of 2021

14.07.2025