

C.R.P.(MD)No.1254 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1254 of 2022

Rajendran

... Revision Petitioner

Vs.

1. R.Murugaiya
2. Shanmugavel @ Thiyagu
3. Baranidharan

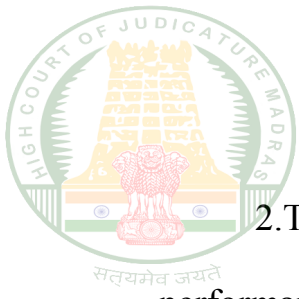
... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 10.03.2020 in I.A.No.22 of 2019 in ASSR No. 70 of 2019 on the file of the Principal Sub Judge, Pudukkottai.

For Petitioner	: Mr.P.Ganapathi Subramanian
For R1	: Mr.N.Kamesh
For R2	: Mr.G.Thaveethu

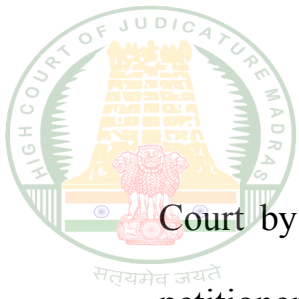
ORDER

This Civil Revision Petition is filed challenging the order dated 10.03.2020 in I.A.No.22 of 2019 in ASSR No. 70 of 2019 on the file of the Principal Sub Judge, Pudukkottai.



2.The first respondent filed a suit in O.S.No.7 of 2011 for specific performance. The petitioner is the third defendant in that suit. The suit was decreed *ex-parte* on 04.08.2024. Thereafter, the petitioner filed an application in I.A.No.247 of 2013 to condone the delay in filing application to set aside the said *ex-parte* decree. The said petition was dismissed. Challenging the same, the petitioner filed a Civil Revision Petition in C.R.P.(MD)No.1692 of 2015 before this Court and the said petition was also dismissed on 25.01.2017. Thereafter, the petitioner preferred an appeal before the Lower Appellate Court in A.S.SR No.70 of 2019 along with an application to condone the delay of 2305 days in filing the second appeal in I.A.No.22 of 2019 under Order XLI Rule 3(a) of CPC. The said application was dismissed. Challenging the same, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel for the petitioner submitted that the suit filed by the first respondent as against the petitioner was decreed *ex-parte*. As against the *ex-parte* decree, the petitioner is having two remedies viz., to file a petition to set aside the *ex-parte* decree or to file an appeal as against the *ex-parte* decree. The first remedy was exhausted by the petitioner by way of filing an application to condone the delay in filing an application to set aside the *ex-parte* decree and the said petition was dismissed. The dismissal of that set aside application will not be a bar for the petitioner to approach the Lower Appellate



Court by way of an appeal as against the *ex-parte* decree passed against the petitioner. However, without considering the explanation offered by the petitioner in the condone delay petition, the trial Court dismissed the petition and the same is not sustainable. Hence, he prays for appropriate order.

4.Per contra, the learned counsel for the respondent submits that the *ex-parte* decree was passed on 04.08.2011. The petitioner/third defendant has not taken any effective steps to set aside the *ex-parte* decree. Hence, the order passed by the trial Court need not be interfered.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The petitioner claims that he purchased the suit property from the first and second defendants. The suit filed by the first respondent was dismissed *ex-parte* as against the defendants including the petitioner. The petitioner tried to adjudicate the issue by way of filing an application to set aside the *ex-parte* decree.

7.Admittedly, the application filed by the petitioner seeking to condone the delay in filing an application to set aside the *ex-parte* decree was dismissed.



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Challenge to the said order of dismissal before this Court in C.R.P.(MD)No. 1692 of 2015 was also dismissed by this Court. The claim of the petitioner as against the *ex-parte* decree was negated by the trial Court as well as this Court. Now as against the very same decree and judgment, the petitioner seeks to file an appeal by way of another round of litigation, which is not sustainable. Further, the delay of 2035 days in filing the appeal as well as the delay in filing an application to set aside the *ex-parte* decree was not properly explained by the petitioner. Hence, this Court is not inclined to interfere with the order passed by the trial Court.

8. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.07.2025

Index : Yes/No
Internet : Yes / No
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To

1. The Principal Sub Judge,
Pudukkottai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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