



C.R..P.(NPD)(MD).No.622 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.622 of 2019

and

C.M.P.(MD)Nos.3163 of 2019 and 1790, 1792 & 1793 of 2024

1.R.Chandranahum
2.M.Washington
3.E.Lawrence
4.E.Joseph
5.R.John Archbuld
6.Wilson Archbuld

... Petitioners

Vs.

1.C.Xavier Jayaseelan
2.C.Jerold Bright
3.M.Gilbert Raj
4.Gricilda
5.S.Robert Singh

... Respondents

PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, set aside the order passed in I.A.No.256 of 2010 in O.S.No. 278 of 2013 dated 08.10.2014 on the file of the Additional District Munsif Court, Padmanabhapuram.



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For Petitioner : Mr.S.C.Herold Singh
For R2 : Mr.S.Titus
For R4 : No Appearance

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.256 of 2010 in O.S.No.278 of 2013 dated 08.10.2014 on the file of the Additional District Munsif Court, Padmanabhapuram.

2.The petitioners are defendants 2 and 5 to 9 in the suit in O.S.No.256 of 2010. The first and second respondents herein are the plaintiffs. The respondents 3 to 5 are the defendants 1, 2 and 4. The suit was filed by the first and second respondents for declaration and the said suit was dismissed *ex-parte* as against the petitioners and other defendants on 14.06.2011. As against which, these petitioners/defendants filed an application seeking to condone the delay in filing a petition to set aside the *ex-parte* decree in I.A.No.378 of 2013 and the same was dismissed vide order dated 08.10.2014. challenging the same, the present Civil Revision Petition is filed.

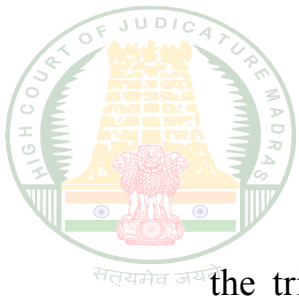


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3.The learned counsel for the petitioner would submit that the first and second respondents filed a suit for declaration to declare the suit schedule property/burial ground is common for the petitioners and the respondents. The said suit was decreed *ex-parte* in favour of the first and second respondents/plaintiffs.

4.The learned counsel for the petitioner further submits that admittedly the suit burial ground originally belonged to one Vaidhiyanathan. The petitioners and the respondents are the descendants of said Vaidhiyanathan. One of the descendant, namely Annammal daughter of Mariandran son of Vaidhiyanathan, filed a suit claiming equal rights in the burial ground. The same was objected by the petitioners on the ground that the said Annammal was married to other family and hence, she has no rights over the said burial ground enjoyed by the defendants. However, the burial ground was declared as common and it was as such. Further, the said Annammal is descendant of Vaidhiyanathan. Hence, she has right to enjoy the burial ground. However, the plaintiffs being the descendants of the said Annammal has no right over the burial ground. He would further submit that the trial Court has not granted any opportunity to the petitioners to raise all their contentions before



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the trial Court and the *ex-parte* order was passed. Hence, the petitioners seeks to set aside the *ex-parte* decree.

5.Per contra, the learned counsel appearing for the second respondent would submit that the first and second respondents are the descendants of Annammal, who is the only daughter of Mariendran and they filed a suit claiming exclusive right of common burial ground and they wanted to enjoy the burial ground along with the petitioners and the other defendants. Hence, the right of the plaintiffs could not be deprived.

6.Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials placed on record.

7.The facts in the present case are not in disputed. Admittedly, the suit was filed in the year 2010 seeking declaration. An *ex-parte* decree was granted in the year 2011. To set aside the said *ex-parte* decree, the petitioners herein filed an application with a delay of 893 days in the year 2013 and the same was dismissed in the year 2014. However, the petitioners are able to bring this Civil Revision Petition only in the year 2019, nearly after a lapse of



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five years. If such a petition is allowed, then it will amount to cause injustice to the parties concerned. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2025

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

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



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M.DHANDAPANI,J.

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