



C.R.P.(MD)Nos.1572 & 1573 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)Nos.1572 & 1573 of 2025

and

C.M.P.(MD)No. 8116 of 2025

1.Gnana Bai

2.Joseph Benson

3.Jayasheela

...Petitioners in both C.R.Ps.

Vs.

1.Vijayakumar

2.Suhathan

3.Moses Chandra Singh

...Respondents in both C.R.Ps.

COMMON PRAYER: Civil Revision Petitions have been filed under Section 115 of Code of Civil Procedure, praying to set aside the fair and decreetal orders dated 19.11.2024 passed by the Hon'ble Sub-Ordinate Judge, Kuzhithurai in I.A.Nos.2 & 3 of 2023 in O.S.No.55 of 2002.



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For Petitioners : Mr.R.Chandra Sudan

For Respondents 1 & 2 : Ms.J.Anandhavalli

For Respondent No.3 : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed seeking to set aside the fair and decreetal orders dated 19.11.2024 passed by the learned Sub-Ordinate Judge, Kuzhithurai in I.A.Nos.2 & 3 of 2023 in O.S.No.55 of 2002.

2.Learned Counsel for the petitioners would submit that the petitioners are the legal heirs of the original sole plaintiff. The original sole plaintiff filed a suit for realising a sum of Rs.4,72,000/- being the total principal amount and future interest at the rate of 9% from the date of suit, till the date of decree and further cost at the rate of 6% p.a., for the principal sum of Rs.4,72,000/- and for other consequential reliefs.

3.Learned Counsel for the petitioners would further submit that the original plaintiff deposited Rs.4,72,000/- in different dates as Rs.3 Lakhs on 26.01.2001, Rs.1 Lakh rupees on 29.01.2001, Rs.50,000/- on 16.02.2001, Rs.22,000/- on 18.03.2001. The other deposit in the passbook was already



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settled. After 16.03.2001, no amount was paid by way of interest or principal amount to the sole plaintiff. Thereby, the petitioners' father filed a suit as against the respondents before the trial Court.

4.He would further submit that the petitioners' father met with a motor accident on 25.02.2009 and succumbed to injuries on 26.06.2009 at William Hospital, Marthandam. During his life time, the petitioners' father did not disclose anything about the suit to the petitioners. However, the petitioners came to know about the suit only on 16.09.2023, through the bailiff. Thereafter, the respondent filed I.A.No.1 of 2023, for raising the attachment made in I.A.No.168 of 2002. Immediately thereafter, the petitioner filed I.A.Nos.2 & 3 of 2023, for condoning the delay as well as to set aside the abatement. Both the petitions were dismissed on the ground that there were no documents to prove that the petitioners' father met with an accident and also the delay was not properly explained. Challenging the same, the present Civil Revision Petitions have been filed.

5.Learned Counsel for the petitioners would submit that admittedly, the suit was filed in the year 2002 and immediately after filing the suit, the suit property was attached and attachment order was passed by the trial Court and



the petitioners' father alone conducted the suit and did not reveal anything to the petitioners. He met with an accident on 25.02.2009 and died on 26.06.2009.

Even while he was admitted in the hospital, he did not disclose the suit particulars to the petitioners, enabling the petitioners to proceed with the suit by filing any application. However, after the death of the petitioners' father, only when through the bailiff they came to know about the suit and immediately thereafter, the petitioners filed I.A.Nos.2 & 3 of 2023 and the same were dismissed. He would further submit that if the suit is not restored, the petitioners have to lose the said amount deposited by the petitioner's father. Hence, he prays for allowing these Civil Revision Petitions.

6.Per contra, learned Counsel for the respondents would submit that the order of the trial Court is perfectly in order and since the delay was not properly explained and the delay was more than 15 years and in the absence of any proper application, restoring the suit is not maintainable and accordingly, he prays for dismissal of these Civil Revision Petitions.

7.Heard the learned Counsel on either side.

8.The facts in the present case are not in dispute. Admittedly, petitioners' father filed a suit for recovery. Thereafter, the petitioners' father met with an



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accident and passed away on 26.06.2009. However, during his lifetime, he did not disclose anything about the suit. After his death, only when the bailiff came to serve notice to the petitioners, they came to know about the suit and thereafter, they filed the impugned I.A.Nos.2 & 3 of 2023 for condoning the delay and for setting aside the abatement. However, those petitions were dismissed on the ground that the delay was not properly explained. Time and again, this Court as well as the Hon'ble Apex Court has held that the delay petitions must be considered leniently and opportunity must be given to the parties to contest.

9. Accordingly, both the Civil Revision Petitions are allowed and the orders passed by the trial Court in I.A.Nos.2 & 3 of 2023 are set aside. The trial Court is directed to restore the suit and dispose of the suit within a period of six [6] months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

18.07.2025

Internet: Yes/No

Index: Yes/No

MR



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To

1.The Sub-Ordinate Judge,
Kuzhithurai

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



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M.DHANDAPANI, J.

MR

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