



C.R.P(MD).No.902 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.902 of 2021
and C.M.P(MD).Nos. 5057 of 2021 and 8741 of 2022

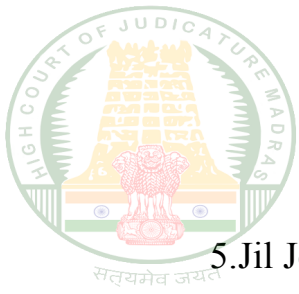
1. Mariappan (died)
2. Mariammal
3. Arul Selvi
4. Dhanam
5. Subramanian
(petitioners 2 to 5 brought on record
as LR's of the deceased sole petitioner vide
Court order, dated 05.02.2025 made in
CMP(MD).Nos.1732 to 1735 of 2025 in
CRP(MD).No.902 of 2021 by RVJ)

...Petitioners

Vs.

1. Muthulakshmi
2. Papa
3. Sownthira raj
4. Baskaran

1/71/7



C.R.P(MD).No.902 of 2021

5.Jil Jegatheesh

6.Rajalakshmi

7.Nirmala

8.Gandhimathi

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decreetal order dated 03.03.2021 passed in I.A.No.1 of 2020 in O.S.No.458 of 2011 on the file of the I Additional Principal District Munsif Court, Tirunelveli.

For Petitioners : Mr.V. Meenakshi Sundaram

For Respondent

Nos.3 to 8 : Mr. P.G. Thiagu

ORDER

This civil revision petition has been filed challenging the fair and decreetal order dated 03.03.2021 passed in I.A.No.1 of 2020 in O.S.No. 458 of 2011 on the file of the I Additional Principal District Munsif Court, Tirunelveli.

2/72/7



C.R.P(MD).No.902 of 2021

2. The suit in O.S.No.458 of 2011 was filed by the respondents seeking for declaration and recovery of possession on the file of the I Additional District Munsif Court, Tirunelveli. The said suit was decreed as *ex-parte* on 19.01.2012. However, on receipt of EP notice, the original defendant came to knowledge about the *ex-parte* order, and immediately, he filed a condone delay petition in I.A.No.1 of 2020 to set aside the *ex-parte* decree with the delay of 2924 days and the same was dismissed. Challenging the same, this civil revision petition is filed by the original defendant. During the course of this proceeding, the original defendant passed away and the petitioners 2 to 5 were impleaded as his legal heirs.

3. The learned counsel for the petitioners submitted that the suit property is 84 sq.mtrs. Originally, the same was owned by one Arumugam. The said Arumugam none other than the father of the respondents herein. The said Arumugam is the close relative of the original defendant. With the permission of said Arumugam, the original defendant and his wife obtained a housing benefit from the Central Government for construction of house, which was granted in favour of

3/73/7

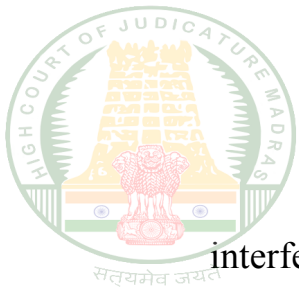


C.R.P(MD).No.902 of 2021

them, dated Nil.07.2009. On that basis, in the year 2009, the original defendant constructed a small house in the building owned by Arumugam. However, all those facts were not explained before the trial Court, since the original defendant was not given any opportunity to contest the case before the trial Court. Hence, he filed a condone delay petition and the same was dismissed, which is not sustainable one.

4. Per contra, the learned counsel appearing for the respondents would submit that the petitioners themselves admitted the property owned by the respondents' father, Arumugam and even a bare perusal of the proceeding relating to the alleged benefit granted under the Central Government Scheme in favour of the original defendant itself clearly reveals that the permission was granted only in respect of Door No.14/3, however, the said number was subsequently altered to 15, for which, no explanation or clarification has been placed before this Court. Hence, the claim of the petitioners to adjudicate before the trial Court based on the said discrepant document, is not sustainable one and further, there are 7 years delay in filing the condone delay petition and the delay was not properly explained. Hence, the order of the trial Court need not be

4/74/7



C.R.P(MD).No.902 of 2021

interfered with. Accordingly, he prayed for dismissal of this revision petition.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court is of the view that originally, the subject property belonged to one Arumugam, father of the respondents and in the proceeding dated Nil. 07.2009, issued by the Government relating to the benefit granted under the Central Government Scheme in favour of the original defendant, some alteration was shown and the delay was also not explained by the original defendant. Hence, this Court do not find any error in the order passed by the lower Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.06.2025

NCC:Yes/No
Index:Yes/No
Rmk

5/75/7



C.R.P(MD).No.902 of 2021

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To:-

1. I Additional Principal District Munsif Court, Tirunelveli.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

6/76/7



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C.R.P(MD).No.902 of 2021

M.DHANDAPANI, J.

Rmk

C.R.P.(MD)No.902 of 2021
and C.M.P(MD).Nos. 5057 of 2021 and 8741 of 2022

12.06.2025

7/77/7