



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.926 of 2021

and

C.M.P.(MD)No.5227 of 2021

O.Pappa

...Petitioner

Vs.

O.Thirumalaiyan

...Respondent

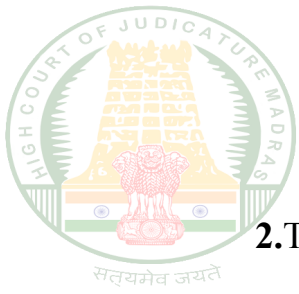
PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to allow this Civil Revision Petition setting aside the fair and decreetal order dated 02.01.2020 passed in I.A.No.3 of 2019 in O.S.No. 51 of 2014 on the file of the Principal Sub Court, Tirunelveli.

For Petitioner : Mr.C.Saravana Kumar

For Respondent : No appearance

ORDER

This petition has been filed seeking to quash the order dated 02.01.2020 passed in I.A.No.3 of 2019 in O.S.No.51 of 2014 on the file of the Principal Sub Court, Tirunelveli.



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2.The petitioner is the mother and the respondent is the son. The respondent son filed a suit for partition and other consequential relief and the said suit was decreed on 23.12.2014, as against the petitioner and other defendants. In the year 2017, when the Commissioner visited the properties for demarcation, only at that time, the petitioner came to know about the ex-parte decree granted against the petitioner. Immediately, the petitioner filed I.A.No.No.3 of 2019, for setting aside the said order with a delay of 1530 days and the said I.A. was dismissed on the ground that the petitioner has not explained the delay properly. Admittedly, there was a compromise between the petitioner and other sons including the respondent. Owing to the compromise, the respondent agreed to withdraw the suit. Thereafter, the said ex-parte order came to be passed, which is unsustainable and there must be a contest and hence, this Court may set aside the order impugned.

3.Though the respondent's name is printed in the cause list, none appears. Considering the pendency of the litigation, this Civil Revision Petition is disposed of in the absence of the respondent, with the materials available on record.

4.Admittedly, the respondent son filed a suit for partition as against the petitioner herein and other defendants and obtained an ex-parte decree.



Thereafter, the petitioner filed I.A.No.3 of 2019, to set aside the ex-parte decree with a condone delay application. The said application came to be dismissed.

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5.Considering the relationship between the parties, though the delay is not properly explained, however, this Court feels that there must be contest and without proper adjudication an ex-parte decree cannot be allowed to continue as against the petitioner. Therefore, the order made in I.A.No.3 of 2019 is set aside and the delay is condoned with a cost of Rs.5,000/-, payable to the respondent.

6.Accordingly, this Civil Revision Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

10.06.2025

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The Principal Sub Court,
Tirunelveli.
- 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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