



C.R.P.(MD)No.2033 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2033 of 2023

Micheal George	... Petitioner/Petitioner/Appellant/ Defendant
	Vs.
Hepsibai Starler Mary	... Respondent/Respondent/Respondent/ Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order made in I.A.No.3 of 2021 in A.S.SR.No.2227 of 2021 on the file of the Principal Subordinate Court, Nagercoil.

For Petitioner : Ms.D.Ramya

For Respondent : Mr.S.Xavier Rajini

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order made in I.A.No.3 of 2021 in A.S.SR.No.2227 of 2021 on the file of the Principal Subordinate Court, Nagercoil.



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2.The facts in brief:

Suit in O.S.No.37 of 2014 was filed by the respondent herein seeking the relief of declaration and recovery of the property from the defendant and mense profits. The suit was decreed as prayed for with cost. Against which, the revision petitioner intend to file appeal. In preferring appeal there is a delay of 1243 days. To condone the delay an application under Section 5 of the Limitation Act was filed by the revision petitioner with the following averments:

2.1.He is in possession and enjoyment of the property for more than 30 yeas. The settlement deed dated 17.11.2006, which is relied by the respondent is not a genuine document. The trial Court without properly appreciating the merits of the matter decreed the suit. Because of his prolonged ailment namely arthritis and corona pandemic, he was unable to file the appeal in time. Hence, there is a delay.

3.That was resisted by the respondent by filing counter setting out the dates and events regarding the execution proceedings and knowledge about the orders in the execution.



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4.The appellate Court after noting the dates and events and the lethargic attitude exhibited by the revision petitioner dismissed the petition, finding that the reason assigned was not properly explained. Against which this revision is preferred.

5.Heard both sides.

6.We can straightaway go to the dates and events mentioned in the counter affidavit. The suit was decreed on 20.10.2017. To execute the decree the respondent filed E.P.No.32 of 2018. The revision petitioner received the notice, but failed to appear. He was set exparte. Later, on 17.06.2019, he filed a petition to set aside the exparte order. It was dismissed for default in E.A.No.1 of 2019.

7.Subsequent to the above said event, on 06.01.2020, the respondent filed a petition to break open the lock. It was ordered on 11.01.2020. The property was delivered with police help on 24.01.2020. Delivery was recorded on 18.02.2020. All along, the revision petitioner



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participated in the execution proceedings. So according to the respondent, the ground raised in the petition is not genuine and acceptable.

8.The revision petitioner relied upon a medical certificate issued by a Medical Practitioner to show his illness. But, this will not over ride or over take the dates and events mentioned above. The alleged prolonged illness does not prevent the revision petitioner to participate in the execution proceedings. But, according to him, it prevented him from filing the appeal in time, much quite contrary in nature. So by his own conduct he has accepted his lethargic attitude. After delivery was effected and that too with police help he wanted to file appeal without any proper reason. The Medical Certificate produced by him cannot be relied for any purpose, which else to show his ailment. The appellate Court after considering the facts in proper prospective, dismissed the petition, which requires no reconsideration. In view of the above said conduct of the revision petitioner, revision fails



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9. Accordingly, this civil revision petition stands dismissed. No costs.

21.01.2025

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

1. The Principal Subordinate Judge, Nagercoil.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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