



C.R.P.(NPD)(MD)No.1050 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.1050 of 2021

and

C.M.P(MD)No.6120 of 2021

Edward (Died)

1.Rajamma

2.Darwin

3.Mahibha

4.Jeshibha

5.Delwin

...Petitioners/Respondents 4 to 6/
Plaintiffs 2 to 6

Vs.

1.Mohanan

2.Vincent

3.Raju

4.Vijayakumaran

...Respondents 1 to 4/Petitioners/
Defendants 3 to 6

5.Satheesh

6.Vamanan

7.Surendran

8.Vinoth

9.Ravi

Thankaraj (Died)

10.Suresh

...Respondents 5 to 10/Respondents 7 to 11 & 13/
Defendants 1,2,7 to 9 & 11

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the Fair and Decreetal order dated 13.03.2021 passed in I.A.No. 213 of 2017 in O.S.No.226 of 2010 on the file of the 2nd Additional District Munsif Court, Kuzhithurai.



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For Petitioners : M/s.M.P.Senthil

For Respondents : Mr.K.P.Narayanakumar for R2 & R4
No appearance for R1, R5 to R9

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ORDER

The plaintiffs 2 to 6 in O.S.No.226 of 2010 on the file of the II Additional District Munsif, Kuzhithurai, are the revision petitioners herein.

2.The plaintiffs have filed the above said suit for the relief of declaration of title and recovery of possession over the “B” schedule property. The plaintiffs have further prayed for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property.

3.The first defendant has filed a written statement which was adopted by the defendants 2 to 8. Thereafter, all the defendants had remained ex-parte and an ex-parte decree came to be passed on 30.11.2016.

4.The defendants 3 to 6 have filed I.A.No.213 of 2017 to condone the delay of 206 days in filing the application to set aside the ex-parte decree. This application was resisted by the plaintiffs. However, considering the fact that the



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defendants claim that the properties belong to the temple, the trial Court has proceeded to condone the delay. Challenging the same, the plaintiffs have filed the above said revision petition.

5. According to the learned Counsel appearing for the revision petitioners, the written statement filed by the first defendant was adopted by the other defendants. The trial Court after considering the evidence of P.W.1 and the documents were marked on the side of the plaintiffs had proceeded to decree the suit. Therefore, the said decree cannot be considered to be an ex-parte decree. He further contended that the written statement was initially filed by the President of the Temple Committee and the present petition has been filed by other office bearers and devotees of the said temple. Therefore, they have no *locus standi* to file the present application.

6. Per contra, the learned Counsel appearing for the defendants 2 to 8 had contended that the first defendant was the President of the temple committee and other defendants who are the office bearers believed the President and permitted him to defend the suit. However, the President of the temple committee has not properly defended the suit, which has resulted in passing of an ex-parte decree. They came to know about ex-parte decree only when the



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plaintiffs attempted to remove the construction in the suit schedule property. He further contended that the property belongs to the temple and therefore, the other office bearers as well as the devotees have got interest in the result of the case. He further contended that after the delay was condoned, Order 9 Rule 13 petition was allowed and the suit is posted for cross examination of P.W.1. However, the plaintiff is not cooperating for cross examination citing the pendency of the revision petition. Hence, he prayed for sustaining the order passed by the trial Court.

7.I have carefully considered the submissions made on either side and perused the materials available on record.

8.The first defendant in the suit is the President of the Elankamparai Sree Elankathamman Badra Bagavathi Malaikovil, Kaniyanvilai, Padanthalumoodu. The defendants 2 to 6 are the other office bearers of the temple committee and the defendants 7 to 11 are the devotees of the said temple.

9.The plaintiff had claimed title over the 'B' schedule property and he has also sought for recovery of possession after removing the illegal constructions. The defendants 2 to 6 have filed the above application to condone the delay on



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the ground that they believed the President, namely, the first defendant and they have not followed the suit. However, the first defendant had betrayed the other office bearers which has resulted in passing of the ex-parte decree. This version of the other defendants is believable. Therefore, the trial Court has rightly allowed the condone delay application and restored the suit.

10. Therefore, there is no illegality or infirmity found in the order of the trial Court and there are no merits in the revision petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

11. Considering the fact that the suit is of the year 2010, the trial Court is directed to dispose of the suit **on or before 31.12.2025.**

12.02.2025

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Internet: Yes/No

Index: Yes/No

RJR

To

The 2nd Additional District Munsif Court, Kuzhithurai.

Copy to:-

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



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R.VIJAYAKUMAR, J.

RJR

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