



C.R.P.(MD)No.813 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].(MD)No.813 of 2020

Mrs.Selvi Chinthamani

... Petitioner

Vs.

A.1362 Meenakshi Co-operative Building
Society Ltd., represented by its Secretary
S.Sivasankaran

...Respondent

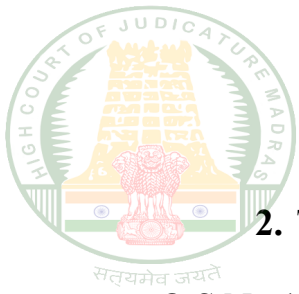
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Ex-order and Fair order passed by the II Additional Sub-Court, Madurai in I.A.No.345 of 2017 in A.S.No.78 of 2011 on 25.04.2018 by dismissing the condone delay petition and allow the present revision.

For Petitioner : Mr.T.Poovalingam

For Respondent : Mr.Marichelliah Prabhu

ORDER

This petition has been filed seeking to set aside the Ex-order and Fair order passed by the II Additional Sub-Court, Madurai in I.A.No.345 of 2017 in A.S.No.78 of 2011 on 25.04.2018.



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2. The case of the petitioner is that the petitioner is a first defendant in O.S.No.180 of 2006. The respondent/plaintiff filed a suit in O.S.No.180 of 2006 for declaration declaring that the plaintiff's society is the absolute owner of the suit property and consequential injunction restraining the first defendant/petitioner from disturbing the peaceful possession and enjoyment of the suit property by the plaintiff. The said suit was decreed on 28.10.2010. Aggrieved against the said judgment and decree, the petitioner preferred an appeal in A.S.No.78 of 2011 before the Additional Sub-Court, Madurai and the said appeal was dismissed for default on 23.06.2016. Aggrieved against the said order, the petitioner filed I.A.No.345 of 2017 to condone the delay in failing the petition to set aside the ex-parte order and the said petition was dismissed. Aggrieved against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner would submit that the respondent/plaintiff filed a suit in O.S.No.180 of 2006 against the petitioner and another for declaration and injunction. The said suit was decreed on 28.10.2010. Aggrieved against the said judgment and decree, the petitioner preferred an appeal in A.S.No.78 of 2011 before the Additional Sub-Court, Madurai and the said appeal was dismissed for default earlier on 23.01.2012. Thereafter, the petitioner filed I.A.No.288 of 2013 along with I.A.No.466 of 2013 for



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restoration of the appeal along with condone delay petition and the same was allowed and the appeal was restored on file. Thereafter, the said appeal was dismissed for default 23.06.2016. As against the said order, the petitioner filed I.A.No.345 of 2017 to condone the delay in filing the application to set aside the ex-parte order for the reason that the petitioner is working as a teacher and she had to take care of her bed ridden father due to his illness and as a result, she could not able to meet her counsel. *In the circumstances, the learned Judge without considering the reason given by the petitioners, dismissed the application erroneously.* Aggrieved against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

4. The learned counsel for the respondent would submit that the respondent society registered in the year 1939. In the year 1959, the then Director by name (Lottiya) L.A.Ramamoorthy became Honorary Secretary of the plaintiff society. The plaintiff's society purchased larger extent of punja land in several survey number in Perungudi Village including the suit property in S.No.320/1, S.No.117/20 through the sale deed dated 16.10.1961. Thereafter, the respondent/society divided the said lands into plots and sold the plots to various persons. In the year 1999 the respondent society came to know that some persons have colluded together and have fabricated some fraudulent



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documents in order to grab portions of properties of the respondent's society without its knowledge or consent of authority. When the respondent was gathering information about the details, the petitioner and a few other purchasers who get scent of the illegal purchase by them, approached the respondent and agreed that they would become a member of the society pay the entire cost of the plot and get it registered in their name. The petitioner became a member and has also paid a sum of Rs.1000/- on 18.12.1999 and another Rs. 1000/- on 24.12.1999. However, she did not choose to pay the sale consideration and get the sale deed registered in her name. Thereafter, the respondent society applied for certified copy of the alleged fraudulent deeds and came to know that the petitioner and others have joined together and fraudulently fabricated documents to defraud the respondent's society. It was found that the second defendant had executed the sale deeds as power agent of the said L.A.Ramamoorthy and a criminal complaint was lodged. In the departmental enquiry L.A.Ramamoorthy had appeared and he denied execution of any Power of Attorney in favour of the second defendant in respect of the properties of the respondent's society and the petitioner had purchased the suit property through sale deed No.2496/1997 dated 05.06.1997 executed by the second defendant as Power of Attorney of the said L.A.Ramamoorthy and L.A.Ramamoorthy is not owner of the property and the respondent society is



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only the owner of the property and the petitioner was not at all a member of the society when the said sale deed was executed in favour of him. Hence, the respondent filed a suit. The said suit was decreed in favour of the respondent. Aggrieved against the said judgment and decree, the petitioner preferred an appeal in A.S.No.78 of 2011 before the Additional Sub-Court, Madurai and the said appeal was dismissed for default earlier on 23.01.2012. Thereafter, the petitioner filed I.A.No.288 of 2013 along with I.A.No.466 of 2013 for restoration of the appeal along with condone delay petition and the same was allowed and the appeal was restored on file. Thereafter, the said appeal was dismissed for default 23.06.2016. As against the said order, the petitioner filed I.A.No.345 of 2017 to condone the delay in filing the application to set aside the ex-parte order. The trial Court has rightly dismissed the application on the ground that the petitioner has not shown any interest to prosecute the case.

5. It is seen from the records that the reasons given by the petitioner in the petition are not genuine and that the appeal suit was already dismissed for default on 23.01.2012 and subsequently the petitioner filed I.A.No.288 of 2013 along with I.A.No.466 of 2013 for restoration of the appeal along with condone delay petition and the same was allowed and the appeal was restored on file. Thereafter, the said appeal was dismissed for default 23.06.2016. As against



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the said order, the petitioner filed I.A.No.345 of 2017 to condone the delay in filing the application to set aside the ex-parte order. In view of the above facts reveals that the petitioner is not interested in pursuing his case and therefore, the trial Court has rightly dismissed the application and there is no interference is required.

6. Accordingly, the Civil Revision Petition is dismissed. No costs.

21.07.2025

Internet:Yes/No
Index:Yes/No
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To

- 1.The II Additional Sub-Court,
Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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