



C.R.P.(MD)No. 1532 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1532 of 2022

and

C.M.P.(MD)No.6553 of 2022

K.Subramani

...Petitioner

Vs.

A.1362 Meenakshi Co-operative
Building Society Ltd,
Through it's Secretary,
S.Sivasankaran,
S/o.Sundara Rajan,
No.21, Vadukakaval Koodal Street,
Madurai.

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the civil revision petition by setting aside the fair and decreetal order passed in I.A.No.346 of 2017 in A.S.No.132 of 2011, on the file of the 2nd Additional Sub Court, Madurai dated 25.04.2018.



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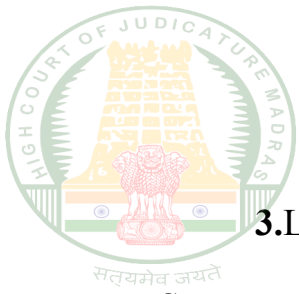
For Petitioner : Mr.H.Arumugam

For Respondent : Mr.C.M.Mari Chellaiah Prabhu

ORDER

This petition has been filed seeking to set aside the fair and decreetal order passed in I.A.No.346 of 2017 in A.S.No.132 of 2011, on the file of the 2nd Additional Sub Court, Madurai dated 25.04.2018.

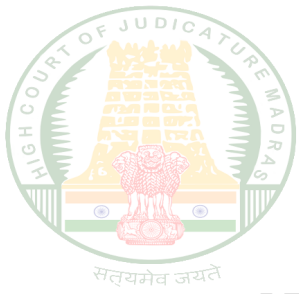
2.Learned Counsel for the petitioner would submit that the petitioner is the defendant in O.S.No.169 of 2006, on the file of the District Munsif Court, Madurai and the said suit was decreed on 28.10.2010. As against the decree granted in favour of the respondent / plaintiff, the petitioner preferred an appeal before the lower appellate Court in A.S.No.132 of 2011 and the said appeal was dismissed for default on 23.06.2016, against which the petitioner filed I.A.No. 346 of 2017, for restoration of appeal with a delay of 381 days. The said delay petition was dismissed. Challenging the same, the present Civil Revision Petition has been filed.



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3.Learned Counsel for the petitioner would submit that the Hon'ble Supreme Court as well as this Court has repeatedly held that the delay has to be leniently viewed and the parties must be given an opportunity to contest the case. However, in the present case, no leniency has been shown though the reason given in the condone delay petition is that the petitioner had some medical ailment and hence, the delay. Accordingly, he prays for allowing this Civil Revision Petition.

4.Per contra, learned Counsel for the respondent would submit that admittedly, the suit is of the year 2006 and the decree was passed in the year 2010 and the appeal was filed in the year 2011. Earlier, the appeal was dismissed for default on 23.01.2012 and against which the petitioner filed I.A.No.285 of 2013, with a delay of 321 days. Initially, lenience was shown on the petitioner and the said I.A. was allowed. Subsequently, for not conducting appeal, the case was dismissed for default on 23.06.2016. However, the restoration application was filed in the year 2017, after a delay of 381 days. The petitioner is the appellant and he allowed the appeal to be dismissed for default twice and has not even given any proper explanation. Such attitude of the petitioner is not appreciable. Thereby, the trial Court dismissed the petition, which need not be interfered with.



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5. The facts in the present case are not in dispute. The suit was decreed in the year 2010. Even after a lapse of 15 years, the respondent herein could not enjoy the decree of the suit. Even after 14 years, the appeal is not disposed of, in view of the lethargic attitude of the petitioner. Hence, the petitioner has not approached the trial Court with clean hands and allowed the appeal to be dismissed for default. Accordingly, this Court does not find any ground to interfere with the order impugned herein.

6. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

15.07.2025

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The 2nd Additional Sub Court,
Madurai.
- 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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