



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1547 of 2025

S.Mariammal

...Petitioner

Vs.

1.P.Mani

2.P.Subbu

3.P.Karuppu

...Respondents

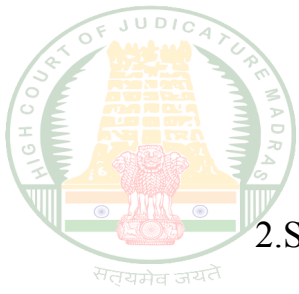
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the executable order and fair order dated 06.01.2025 in I.A.No.01 of 2023 in unnumbered A.S.No. /2023 in O.S.No.117 of 2009 on the file of the Sub Court, Periyakulam and set aside the same.

For Petitioners : Mr.R.Suriya Narayanan

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ORDER

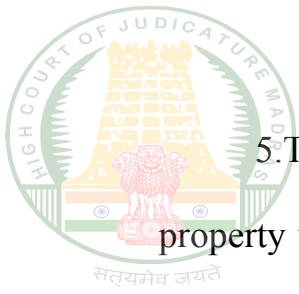
The petitioner has filed this Civil Revision Petition challenging the order dated 06.01.2025 in I.A.No.01 of 2023 in unnumbered A.S.No. of 2023 in O.S.No.117 of 2009 on the file of the Sub Court, Periyakulam.



2.Since no adverse order is going to be passed in this petition, notice to the respondent is dispensed with.

3.The petitioner filed a partition suit in O.S.No.117 of 2009 as against her brothers on the file of the District Munsif Court, Periyakulam claiming partition in the suit property. The said suit was dismissed on 02.04.2014. After ten years, the petitioner filed an appeal with a delay of 3204 days in I.A.No.1 of 2023 and the same was dismissed. Challenging the same, the present Civil Revision Petition is filed.

4.The learned counsel for the petitioner submitted that the petitioner filed a suit claiming 1/3 share in the suit property under the provisions of the Hindu Succession (Amendment) Act, 2005. However, the trial Court arrived at a conclusion that the petitioner got married prior to the year 1989 and under the provisions of the Hindu Succession Act, 1989, the petitioner is not entitled to claim a share in her father's or ancestral property and only in order to harass the brothers of the petitioner, the petitioner has filed the suit. Whereas the petitioner claims that under the provisions of the Hindu Succession (Amendment) Act, 2005 the daughter is entitled to claim a share in the ancestral property based on her birth. However, the issue was not properly appreciated by the trial Court. Hence, she prayed for appropriate orders.



5.The fact in the present case is not in dispute. Admittedly, the suit property was divided among the three brothers of the petitioner. The fact that the petitioner got married prior to 1989 is also equally undisputed. The petitioner at the age of 50 years filed the suit for partition as against her brothers. The said suit was dismissed in the year 2014. However, the appeal was preferred in the year 2023 after a delay of 9 years. The delay was also not properly explained before the trial Court. If such huge delay is accepted without any valid reasons, it will cause great prejudice to the respondents/ brothers of the petitioner. The trial Court considering all these aspects have dismissed the petition seeking to condone the delay in filing the appeal.

6.Normally, this Court would consider the condone delay application very leniently. However, in the present case, the dispute is between brothers and sisters with regard to the ancestral property. The petitioner filed the suit after three decades of her marriage. Further, the appeal as against the dismissal of the suit was also filed with a delay of nine years. Such a huge delay cannot be condoned without any valid reason. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2025

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

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

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M.DHANDAPANI, J.

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