



**C.R.P(MD)No.779 of 2020**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.01.2025**

**CORAM :**

**THE HONOURABLE Mr. JUSTICE G.ILANGO VAN**

**C.R.P(MD)No.779 of 2020**

**and**

**C.M.P(MD)No.5240 of 2020**

P.Mariappan

... Petitioner / Defendant

**Vs**

K.V.Mani

... Respondent / Plaintiff

PRAYER : This Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the order passed in I.A.No.1 of 2019 in O.S.No.219 of 2014 on the file of the Principal Subordinate Judge, Tenkasi, dated 09.01.2020, by allowing this Civil Revision Petition and to proceed further in accordance with law.

For Petitioner : Mr.M.Mohamed Sherbudeen

For Respondent : Mr.S.Sivakumar

**ORDER**

This Civil Revision Petition is filed to set aside the order passed in I.A.No.1 of 2019 in O.S.No.219 of 2014 on the file of the Principal Subordinate Judge, Tenkasi, dated 09.01.2020.



C.R.P(MD)No.779 of 2020

2. The suit in O.S.No.219 of 2014 was filed by the revision petitioner, seeking the relief of specific performance and costs. The suit was posted for filing written statement by the revision petitioner on 24.02.2015. But the revision petitioner suffered jaundice taking native treatment and so could not file written statement on that date. So the suit was decreed ex parte on 07.09.2015. To file a petition to set aside the ex parte decree, there is a delay of 775 days. To set aside the same, I.A.No. 1 of 2019 was filed.

3. It was resisted by the respondent stating that E.A.No.11 of 2016, the revision petitioner appeared on 24.03.2016. After that he filed the present petition after lapse of two years. Now E.P., is pending in E.P.No. 97 of 2018. The trial Court after hearing both sides, dismissed the petition stating that no proper reason was assigned by the revision petitioner to condone the delay. Against which, this Civil Revision petition is preferred.

4. Heard both sides.



C.R.P(MD)No.779 of 2020

5. No doubt it is an enormous delay of 775 days. But perusal of records shows that the main suit is filed for specific performance based upon a sale agreement alleged to have been entered between the parties on 12.07.2012. Advance amount of Rs.1 Lakh was paid on the date of sale agreement. The balance amount was only Rs.17,000/- Time for performance was fixed at three years. Demand for execution of the sale was made on 15.09.2014. The revision petitioner filed written statement along with this I.A.No.1 of 2019 stating that the document was never intended to be treated as a sale agreement; he received loan amount from the plaintiff's son by name Raja Venkatesh on mortgage. After sometime, he could not discharge the loan. So the present agreement was obtained under force and threat.

This was pointed out by the revision petitioner at the time of argument. According to him, mentioning three years for payment of balance amount of Rs.17,000/- respondent will clearly indicate that it was not intended to be acted upon a sale agreement. On that account he wants that an opportunity may be given to him to contest the matter on merits.



C.R.P(MD)No.779 of 2020

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6. Whether the above said ground is available to him or not is beyond the scope of this revision. However, considering the above said facts and circumstances of this case and more particularly, the time mentioned in the sale agreement for performance upon the contract, I am of the considered view that the petition is liable to be allowed. Therefore, the petitioner was directed to make a payment of cost of Rs. 5,000/- to the respondent for the inconvenience caused to him. As per the order of this Court, the petitioner has paid the amount and a memo to that effect was also filed.

7. Accordingly this Civil Revision Petition stands allowed. The order passed in I.A.No.1 of 2019 in O.S.No.219 of 2014 on the file of the Principal Subordinate Judge, Tenkasi, dated 09.01.2020, is set aside and I.A.No.1 of 2019 stands allowed. No costs. Consequently, connected miscellaneous petition stands closed.



C.R.P(MD)No.779 of 2020

**29-01-2025**

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

- 1.The Principal Subordinate Judge, Tenkasi.
- 2.The Section Officer, VR Section,  
Madurai Bench of Madras High Court, Madurai.



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**C.R.P(MD)No.779 of 2020**

**G.ILANGO VAN, J.**

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**29.01.2025**