



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1369 of 2022

and

C.M.P(MD)No.5680 of 2022

1.M.Subramanian

2.M.Periyasamy

... Petitioners

Vs.

1.Kamalam

2.Jeyaraj

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the order and Ex-order dated 02.03.2022 made in I.A.No.220 of 2015 in O.S.No.572 of 2009 on the file of the Additional District Munsif, Madurai Town.

For Petitioners : Mr.R.Narayanan

For Respondents : Mr.T.C.S.Thillainayagam for R1

ORDER

This Civil Revision Petition has been filed challenging the exparte order dated 02.03.2022 made in I.A.No.220 of 2015 in O.S.No.572 of 2009 on the file of the Additional District Munsif, Madurai Town.



2. The learned counsel for the petitioner would submit that the petitioner is the plaintiff in O.S.No.572 of 2009. The said suit was filed for injunction as against the respondent/defendant and in the said suit, an exparte decree was passed in the year 2012. However, in the year 2015, the first respondent/second defendant filed an application with delay in I.A.No.220 of 2015 to set aside the exparte decree and the same was allowed on 02.03.2022. Challenging the same, the present revision petition has been filed.

3. The learned counsel for the petitioner would submit that admittedly the suit was decreed as exparte as against the first respondent/second defendant in the year 2012. However, the delay was not properly explained before the trial Court in I.A.No.220 of 2015 and without proper explanation for each and every delay, the delay was condoned by the trial Court is not sustainable one, accordingly, he prayed for allowing this revision petition.

4. Per contra, the learned counsel for the first respondent would submit that an exparte decree was passed in the year 2012. However, the exparte decree passed by the trial Court is not communicated to the first respondent. On verification of the revenue authorities, the exparte decree came to the knowledge of the first respondent. Thereby, the first respondent immediately filed a set aside application with delay of 851 days.



5. This Court and the Hon'ble Apex Court repeatedly held that the delay petitions have to be considered leniently while dealing the Section 5 applications and thereby the trial Court ordered the delay petition which need not be interefered. Hence, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

02.07.2025

Internet: Yes/No

Index: Yes/No

NCC: Yes/No

PJL

To

1.The Additional District Munsif, Madurai Town.

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



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M.DHANDAPANI, J.

PJL

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