



C.R.P.(NPD)(MD)No.1097 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(NPD)(MD)No.1097 of 2020

Mariaanthony

... Petitioner/
Petitioner/4th Plaintiff

Vs.

Selvaraj (Died)

1. Rajayyan

2. Maria Sebastin

... Respondents 1 and 2/
Respondents 2 and 3/
Plaintiffs 2 and 3

Rajendran (died)

3. Devakadaksham Nadar

4. Nagamony

5. Rosammal

Harris (Died),

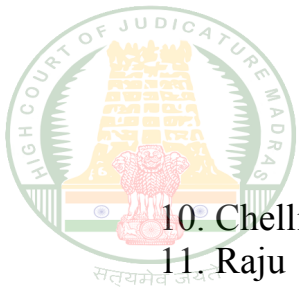
Gnanabharanam (Died),

6. Muthian

7. Palayyan

8. Thankamony

9. Rajamony



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10. Chellian

11. Raju

12. Rajamony

13. Yovel

14. Chella Nadar

Gnanmony (Died)

15. Palammal

16. Marianthankam

17. Davidson

18. Daisy

19. Bright

20. Raby

21. Johnson

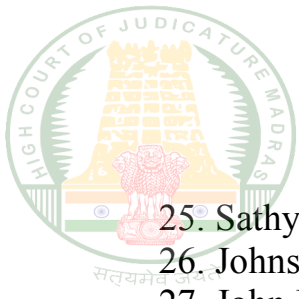
S/o.Chelliah Nadar

22. The State of Tamil Nadu
Represented by District Collector,
Kanyakumari District at Nagercoil.

23. The Commissioner
Thuckalay Panchayat Union,
Esakkivilai, Kodiyoor Desom,
Thriuvithancode Village,
Kalkulam Taluk,
Kanyakumari District.

24. Chellam Nadachi
D/o.Nachi Nadachi

Santhosam @ Vargheese (Died),



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25. Sathyaraj
26. Johnson
27. John Rose
28. Francis
29. Mathias

... Respondents 3 to 29/
Respondents 5 to 7, 10 to
18, 20 to 29 and 31 to 35/
Defendants 2 to 4, 7 to 15
17 to 26 and 3rd parties

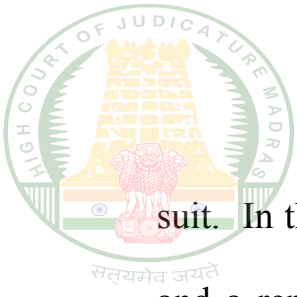
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed by the Additional District Munsif, Padmanabhapuram in I.A.No.1 of 2019 in O.S.No. 318 of 1975, dated 31.01.2020, and set aside the same and may direct the trial Court to restore final decree applications and may proceed with the case for final adjudication.

For Petitioner : Mr.K.P.Narayanakumar
For R22 and R23 : Mr.B.Saravanan
Additional Government Pleader

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order passed by the Additional District Munsif Court, Padmanabhapuram in I.A.No.1 of 2019 in O.S.No.318 of 1975, dated 31.01.2020.

2.The petitioner is the plaintiff in the suit in O.S.No.318 of 1975 filed for partition and a preliminary decree was passed in that suit on 23.02.1977. Thereafter, final decree application was also filed by the first defendant in the



suit. In the final decree application, an Advocate Commissioner was appointed and a report was also filed on 16.12.1991. During the pendency of the final decree application, the first defendant died on 01.03.1992. Since the legal heirs of the first defendant has not come forward to proceed with the final decree proceedings, the final decree application was dismissed on 29.09.1992. Thereafter, with the delay of 9265 days, the petitioner herein has filed an application seeking to condone the delay in filing the application for setting aside the order made in the final decree application. The said petition was dismissed. Challenging the same, the petitioner has filed this Civil Revision Petition.

3.The learned counsel for the petitioner submits that admittedly, the preliminary decree was passed in the year 1977. The final decree application was dismissed in the year 1992. The petitioner contended that the petitioner entrusted his brother to look after the case and he failed to pursue the matter properly and the petitioner was not aware of the dismissal of the final decree proceedings. When the petitioner came to know about the order made in the final decree proceedings, immediately, he filed an application to set aside the order made in the final decree proceedings. Hence, the delay was occurred. However, the trial Court without considering all these aspects has dismissed the application of the petitioner.



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4. Though this Civil Revision Petition is of the year 2020, the petitioner has not taken any effective steps to effect service on the private respondents. However, considering the pendency of this Civil Revision Petition, this Court is inclined to dispose of this Civil Revision Petition based on the available records.

5. The facts in the present case are not in dispute. Admittedly, the plaintiff filed a suit for partition. It is also equally undisputed that the first defendant already initiated final decree proceedings and the same was dismissed. Now, the petitioner, who is the fourth defendant in the suit, filed an application for executing the decree with the delay of 25 years. The petitioner claims that he was not aware of the dismissal of the final decree proceedings filed by the first defendant in the suit and immediately, after coming to know about the said dismissal, he filed the final decree proceedings with delay and the said delay is not wilful.

6. The Limitation Act, 1963, sets a 12-year limit for executing a decree. The 12-year period begins when the decree becomes enforceable, which is typically the date the judgment is pronounced. In the present case, the preliminary decree itself was passed in the year 1977. Now after a lapse of



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more than 20 years, the petitioner has filed this petition for executing the decree passed in the year 1977, which is clearly barred by limitation. Further, the inordinate delay of 25 years has not been properly explained by the petitioner.

7. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

07.07.2025

Index : Yes/No

Internet : Yes / No

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To

1. The Additional District Munsif,
Padmanabhapuram.
2. The District Collector,
Kanyakumari District,
Nagercoil.
3. The Commissioner
Thuckalay Panchayat Union,
Esakkivilai, Kodyoor Desom,
Thriuvithancode Village,
Kalkulam Taluk,
Kanyakumari District.
4. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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