



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1329 of 2021

and

C.M.P.(MD).No.7637 of 2021

Cruz Victoria Mary

...Petitioner

Vs.

1.Vincent

2.C.Chithirai Rajan

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 09.11.2020 passed in I.A.No.09 of 2019 in O.S.No.114 of 2015 on the file of the learned District Munsif, Sathankulam and allow the above Civil Revision Petition.

For Petitioner : Mr.D.Rajkumar

For R-1 : Mr.C.K.M.Appaji

For R-2 : No Appearance

* * * * *

ORDER

This petition has been filed seeking orders to set aside the fair and decreetal order dated 09.11.2020 mae in I.A.No.09 of 2019 in O.S.No.114 of 2015 on the file of the learned District Munsif, Sathankulam.



2. The learned counsel appearing for the petitioner submitted that the petitioner filed a suit in O.S.No.114 of 2025, seeking declaration and permanent injunction, including a prayer to declare that the sale deed executed by the first respondent in favour of the second respondent, dated 05.06.2008, as null and void. During the pendency of the suit, the petitioner filed I.A. No.9 of 2019 before the learned District Munsif, Sathankulam, seeking to amend Paragraph No.3 of the plaint to correct the date of the joint power of attorney, which was erroneously mentioned as 12.02.2002 instead of the correct date, 25.09.2002. The said petition was dismissed on the ground of delay. Aggrieved by the said dismissal, the present Civil Revision Petition has been filed

3. The learned counsel appearing for the petitioner would submit that, admittedly, the petitioner is the wife of one Jesudurai, and that the said Jesudurai's brothers, viz., Vincent and Santhana Luckas, purchased the suit property vide sale deed dated 19.10.1989. Subsequently, in order to repay family debts, the above said Jesudurai's brothers executed a Power of Attorney dated 12.02.2002 in favour of the petitioner's husband. However, the said Power of Attorney was cancelled on 25.09.2002 and on the very same day itself, new power of attorney was executed and on the basis of the said power of attorney dated 25.09.2002, the sale deed dated 08.07.2014 was executed in favour of the petitioner. But in the plaint, the power of attorney was wrongly mentioned as 12.02.2002 instead of 25.09.2002, and the petitioner sought to correct the same



by filing an amendment application in Paragraph No.3 of the plaint. The trial Court, without considering the merits of the case, dismissed the amendment petition solely on the ground of delay, which is not legally sustainable. Since no substantial objection has been raised by the respondents opposing the amendment, the rejection of the amendment petition is unjustified and contrary to law.

4. The learned counsel appearing for the first respondent would submit that the first respondent is the brother of the petitioner's husband. He, along with his other brother, Santhana Luckas, executed a Power of Attorney in favour of the petitioner's husband on 12.02.2002, which was subsequently cancelled on 25.09.2002. It is further submitted that there was no Power of Attorney subsisting in favour of the petitioner's husband as on 25.09.2002 in respect of the suit property.

5. In view of the above submissions, this Court is of the considered opinion that the proposed amendment sought by the petitioner is a mere correction of the date of the Power of Attorney, which does not alter the nature or character of the suit. The trial Court, without appreciating the merits of the case and the absence of any substantial objection from the respondents, has erroneously dismissed the amendment application solely on the ground of delay. Such a rejection is not legally sustainable. Accordingly, the order passed by the



trial Court dated 09.11.2020 passed in I.A.No.09 of 2019 in O.S.No.114 of 2015 is set aside and the amendment sought for in Paragraph No.3 of the plaint is permitted. In view of the above, the trial Court is directed to amend the plaint in paragraph No.3 as 25.09.2002 instead of 12.02.2002 and liberty is granted to the respondents to file written statement to take all defence at the time of trial.

6. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

12.06.2025

Internet:Yes/No
Index:Yes/No
TSG

To
1.The District Munsif, Sathankulam.

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



WEB COPY

C.R.P.(PD)(MD)No.1329 of 2021



M.DHANDAPANI, J.

TSG

C.R.P.(PD)(MD)No.1329 of 2021

12.06.2025