



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)No.1521 of 2021

and

C.M.P.(MD)No.8393 of 2021

Rampriya Dhileep

..Petitioner

Vs.

1.Shadhiq Batcha

2.Musthafa

3.Ram Manohari Rajaram

4.Rafeek Áhamed

5.Habeeb Rahuman

...Respondents

(Respondent Nos.4 and 5 impleaded vide Court order dated 09.01.2025 made in C.M.P.(MD).No.12314 of 2024 in CRP(MD).No.1521 of 2021)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 09.04.2021 passed in I.A.No.1 of 2019 in unnumbered A.S.No...of 2019 on the file of the learned Principal District Judge, Theni District.



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C.R.P.(NPD).(MD)No.1521 of 2



For Petitioner : Mr.K.Sudalaiyandi

For R-1 : Mr.V.George Raja,
for M/s.Ajmal Associates

For R-4 and R-5 : Mr.G.Prabhu Rajadurai

For R-2 : No Appearance

ORDER

This petition has been filed seeking orders to set aside the fair and decreetal order dated 09.04.2021 passed in I.A.No.1 of 2019 in unnumbered A.S.No...of 2019 on the file of the learned Principal District Judge, Theni District.

2. The first respondent filed a suit in O.S.No.15 of 2012 before the learned Subordinate Judge, Periyakulam, against the petitioner and respondent Nos.2 and 3, seeking specific performance. On 10.02.2017, the learned Sub Judge, Periyakulam, decreed the suit, directing the petitioner and respondent Nos.2 and 3 to refund the advance amount with interest within a period of two months from the date of the judgment. Aggrieved by the said judgment, the petitioner preferred an appeal before the learned Principal District Judge, Theni. Since there was a delay in filing the appeal, the petitioner filed an application in I.A.No.1 of 2019 in unnumbered A.S.No.____ of 2019 to condone the delay of



875 days. The First Appellate Court refused to condone the delay on the ground that the inordinate delay of 875 days was not satisfactorily explained and dismissed the said application on 09.04.2021. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the third respondent are the legal heirs of the first defendant, viz., V. Haripriya Ramapathiran. The petitioner's mother had entered into a sale agreement with the first respondent / plaintiff, which was not honoured. Consequently, the first respondent filed a suit for specific performance in O.S.No.15 of 2012 before the learned Sub Judge, Periyakulam. However, the trial Court, instead of decreeing the suit for specific performance, directed the petitioner and respondent Nos.2 and 3 to refund the advance amount with interest within a period of two months from the date of judgment. No appeal was preferred by the petitioner and the second and third respondents at the relevant point of time.

3.(i). The learned counsel appearing for the petitioner would further submit that the petitioner had gone to other States for employment and came to know about the decree and judgment dated 10.02.2017 only later. Thereafter, the petitioner filed an appeal in unnumbered A.S.No.____ of 2019, along with an application in I.A.No.1 of 2019 to condone the delay of 875 days in filing the



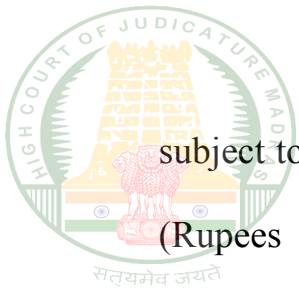
said appeal. The First Appellate Court refused to condone the delay, stating that it was not satisfactorily explained, and dismissed the application on 09.04.2021.

Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

3.(ii). The learned counsel for the petitioner would further submit that the petitioner is ready to pay the auction amount of Rs.12,01,500/-, which was paid by the fourth and fifth respondents, who are the auction purchasers of the property through the Court. Out of this, the first respondent is entitled to withdraw the decree amount, and in fact, a sum of Rs.9,82,500/- has already been withdrawn by the first respondent. The petitioner is willing to pay the full sum of Rs.12,01,500/-, and therefore, no prejudice would be caused to the auction purchasers, namely respondents 4 and 5. Hence, this Court may be pleased to direct the trial Court to number the appeal and dispose of the same in accordance with law.

4. The learned counsel appearing for respondents 4 and 5 has no serious objection to the same.

5. In view of the above submissions and considering the facts and circumstances of the case, this Court is inclined to direct the Principal District Court, Theni District to take the unnumbered A.S.No.____ of 2019 on file,



subject to the condition that the petitioner shall deposit a sum of Rs.12,01,500/- (Rupees Twelve Lakhs One Thousand and Five Hundred only), which represents the auction amount paid by the fourth and fifth respondents, within a period of four weeks from the date of receipt of a copy of this order. Upon such deposit, the first appellate Court shall number the appeal and proceed to dispose of the same on merits and in accordance with law, after affording opportunity to all parties concerned. The first appellate Court shall permit the respondents 4 and 5 (auction purchasers) to implead themselves in the first appeal, if they so desire. Till the first appeal is disposed of, the execution proceedings and delivery process shall be deferred.

6. Accordingly, this Civil Revision Petition is allowed, subject to the above conditions. No costs. Consequently, the connected miscellaneous petition is closed.

18.06.2025

Internet: Yes/No

Index: Yes/No

TSG

To

1. The Principal District Judge, Theni District.

2. The District Munsif, Srivaigundam.



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

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C.R.P.(NPD).(MD)No.1521 of 2





WEB COPY

C.R.P.(NPD).(MD)No.1521 of 2



M.DHANDAPANI, J.

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C.R.P.(NPD).(MD)No.1521 of 2021

18.06.2025