



C.R..P.(NPD)(MD).No.93 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.93 of 2021

1. Sakthivel

2. Anandan

... Petitioners/Petitioners/
Plaintiffs

3. Chitra

... Proposed Petitioner

(3rd Petitioner is brought on record as LR of the first petitioner vide order of this Court dated 16.12.2024 made in C.M.P(MD) Nos.17668 to 17670 of 2024 in C.R.P(MD) No.93 of 2021)

Vs.

Arumugam

... Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the Executable order and fair order, dated 03.02.2020 made in I.A.No.01 of 2019 in O.S.No.167 of 2008 on the file of the District Munsif Court, Aundipatti.

For Petitioners : Mr.R.Suriyanarayanan

For Respondent : Mr.R.Rajaraman



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ORDER

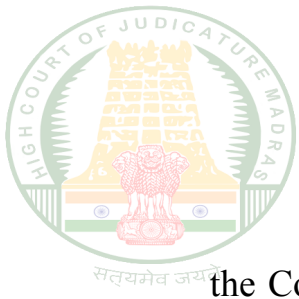
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It is represented that the first respondent is alive. The Registry is directed to delete the endorsement in the cause title that the first respondent is dead.

2. The plaintiffs in O.S.No.167 of 2008 on the file of the District Munsif Court, Aundipatti, Theni District, is the revision petitioners herein.

3. The said suit has been filed for the relief of permanent injunction restraining the defendant from interfering the possession of the plaintiffs. The suit was dismissed for default for the non-appearance of the plaintiffs on 02.02.2018. The plaintiffs have filed I.A.No.1 of 2019 to condone the delay of 421 days in filing an application to restore the suit. This application has been dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

4. A perusal of the affidavit filed in support of the condone delay application reveals that due to viral fever, the first plaintiff could not attend



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the Court on 02.02.2018. However, no reasons have been assigned for filing the application to restore the suit after a period of 421 days. The trial Court has found that the suit was initially dismissed for default on 05.08.2010 and it was restored. For the second time, the suit was dismissed for default on 28.03.2011 and it was restored. For the third time, the suit has been dismissed for default on 02.02.2018 and the present application has been filed to condone the delay of 421 days in filing the application to restore the suit. The trial Court has found that the plaintiff is in habit of leaving the suit for default and has proceeded to dismiss the application.

5. According to the learned counsel appearing for the petitioners/ plaintiffs, since the first petitioner was suffering from viral fever, he could not attend the Court on 02.02.2018.

6. This Court is not convinced the reasons stated in the affidavit because it does not disclose any reason for the delay thereafter. Further, it is the third time the suit has been dismissed for default. The suit is of the year 2008, therefore, this Court does not find any reason to interfere in the order of the trial Court.



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

20.02.2025

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

1. The District Munsif Court,
Aundipatti.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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