



C.R.P.(MD)No.1931 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].(MD)No.1931 of 2025

and

C.M.P.(MD)No.11037 of 2025

Muthaiah Thevar

...Petitioner

Vs.

Subbulakshmi

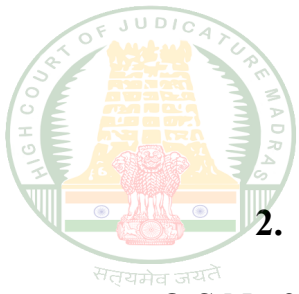
...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 13.02.2025 made in I.A.No.6 of 2024 in O.S.No.92 of 2010, on the file of the District Munsif Court, Nanguneri and allow the revision.

For Petitioner : Mr.K.Suresh Subramanian

ORDER

This petition has been filed seeking to set aside the fair and decreetal order, dated 13.02.2025 made in I.A.No.6 of 2024 in O.S.No.92 of 2010, on the file of the District Munsif Court, Nanguneri.



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2. The case of the petitioner is that the petitioner is the defendant in O.S.No.92 of 2010. The respondent/plaintiff filed a suit in O.S.No.92 of 2010, on the file of the District Munsif Court, Nanguneri for partition and the said suit was dismissed for default on 09.12.2016. Thereafter, the respondent filed I.A.No.2 of 2023 seeking for restoration of the suit and the said application was also dismissed for default on 10.10.2023. Again the respondent filed I.A.No.6 of 2024 with delay of 316 days to restore the I.A.No.2 of 2023 and the said application was allowed with a cost of Rs.3,000/-. Challenging the same, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner would submit that admittedly, the respondent/plaintiff filed a suit for partition as against the petitioner in the year 2010 and the said suit was dismissed for default on 09.12.2016 and thereafter the respondent filed I.A.No.2 of 2023 for restoration of the suit and the said application was also dismissed for default on 10.10.2023. Further, the respondent filed the present I.A.No.6 of 2024 with delay of 316 days to restore the I.A.No.2 of 2023 and the said application was allowed with a cost of Rs. 3,000/-. He further submitted that though the delay was not properly explained before the trial Court, the trial Court has allowed the application and the same is not sustainable in law. The respondent has not approached the Court with clean



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hands. The trial Court without considering the delay on the part of the respondent/plaintiff allow the application, which is liable to be set aside and prays for allowing the Civil Revision Petition.

4. Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.

5. I have carefully perused the entire materials on record and arguments of counsel for the petitioner.

6. The contention of the learned counsel for the petitioner that the learned Judge erred in condoning the delay of 316 days to file the petition to restore the application in I.A.No.2 of 2023 is untenable. It is well settled that the length of delay is not a criteria, but the reason given by the parties must be sufficient and valid reason. The Court has to see that whether the action of the party is bonafide or malafide. In the present case, the respondent has stated that the delay in filing the application to restore the petition has been occurred only the respondent has suffered severe viral fever. The respondent filed an application for condonation of delay in filing the petition to set aside the ex-parte decree. The petitioner has given valid reason for delay. The suit filed by the



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respondent/plaintiff is for partition. In the circumstances, the respondent/plaintiff is entitled to give an opportunity to contest the case on merits. Therefore, the learned District Munsif, Nanguneri, considered all the materials on record and considering the reason given by the respondent, allowed the petition for condonation of delay. There is no irregularity or illegality in the said order warranting interference by this Court.

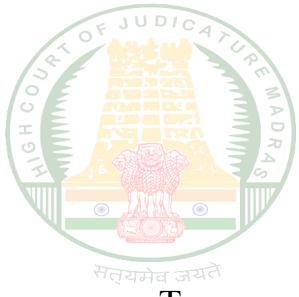
7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

21.07.2025

Internet:Yes/No

Index:Yes/No

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To
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- 1.The District Munsif Court,
Nanguneri
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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