



C.R.P.(MD)No.1910 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1910 of 2025

and

C.M.P.(MD)No.10774 of 2025

1.C.R.Bernord Joseph Raj

2.C.R.Richard Joseph Raj

...Petitioners

Vs.

1.Ranganathan

2.Nesammal

3.Sreenivasan

4.Ramachandran

5.Rajagopal

6.Saradha Bai

7.Saroja Bai

8.Vijayakumari

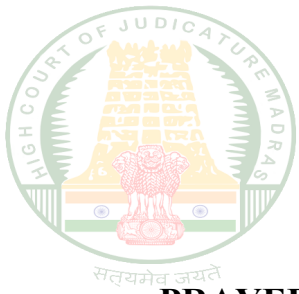
9.Sankaran

10.Mary Beena

11.Vimala Rani

12.Angel Mary

...Respondents



C.R.P.(MD)No.1910 of 2025

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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to call for the records relating to the Fair and Decreetal order in I.A.No.6 of 2024 in O.S.No.110 of 2011 passed by the Additional District Judge, Kuzhithurai dated 20.03.2025 and set aside the same and may present the petitioners to adjudicate this claim in Original Suit for their property.

For Petitioners : Mr.K.P.Narayanakumar

For Respondents 1 & 5 : Mr.M.Mohanaraj

For Respondents 3,4,6,7&10 : No appearance

For Respondent No.12 : Mr.R.J.Karthick

ORDER

This petition has been filed seeking to set aside the fair and decreetal order in I.A.No.6 of 2024 in O.S.No.110 of 2011, passed by the Additional District Judge, Kuzhithurai dated 20.03.2025.

2.Learned Counsel for the petitioners would submit that the petitioners are the eighth and ninth defendants in O.S.No.110 of 2011 and the said suit was filed by the first respondent / plaintiff as against the other respondents for partition and other consequential reliefs. However, the petitioners / 8th and 9th



C.R.P.(MD)No.1910 of 2025

defendants were set ex-parte in the pending suit on 18.08.2006. The said suit was initially numbered as O.S.No.255 of 2006 on the file of the Principal District Munsif Court, Kuzhithurai and thereafter re-transferred and renumbered as O.S.No.110 of 2011 on the file of the Additional District Court, Kuzhithurai. Till date, the suit has not been disposed of. However, the petitioners came to know that ex-parte order came to be passed against them on 18.08.2006. Since the petitioners purchased the property from the other share holders, thereby the first respondent / plaintiff himself impleaded the petitioners as 8th and 9th defendants. Unless and otherwise the ex-parte order is set aside, the petitioners will sustain irreparable loss and thereby they filed I.A.No.6 of 2024, along with written statement containing certain documents such as patta, tax receipts etc,. However, the said I.A. was dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3.Learned Counsel for the petitioners would submit that as on date, the suit is not disposed of and it is pending for consideration. By setting aside the ex-parte order in favour of the petitioners, no prejudice will be caused to the first respondent / plaintiff and other defendants who are not affected parties. Accordingly, he prays for appropriate orders. For the inconvenience caused to the first respondent / plaintiff, he submits that the petitioners are ready to pay



C.R.P.(MD)No.1910 of 2025

the reasonable cost, if any, imposed by this Court.

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4.Learned Counsel for the first respondent / plaintiff would submit that the first respondent is the contesting respondent and he filed a partition suit as against the defendants including the petitioners. The petitioners are the subsequent purchasers of the property from the other share holders, thereby, they were impleaded as party in the proceedings and the ex-parte order was passed in the year 2006. However, the set aside ex-parte petition was filed only in the year 2024, after a lapse of 18 years. Though there is no much prejudice caused to the first respondent, even then, in the absence of proper explanation in the set aside petition, the trial Court has rightly dismissed the petition. Accordingly, he prays for dismissal of this Civil Revision Petition.

5.Heard the learned Counsel on either side.

6.The facts in the present case are not in dispute. Admittedly, the suit was decreed ex-parte as against the petitioners in the year 2006 itself and there is a huge delay on the part of the petitioners in preferring a petition to restore the suit as regards them. However, the Hon'ble Supreme Court as well as this Court



C.R.P.(MD)No.1910 of 2025

has repeatedly held that the delay has to be leniently viewed and the parties must be given an opportunity to contest the case. Moreover, till date, the suit has not been disposed of and no prejudice is caused to the first respondent / plaintiff in allowing the I.A. filed by the petitioners for setting aside the ex-parte order passed against them.

7.Considering the above, this Civil Revision Petition is allowed and the orders passed by the trial Court in I.A.No.6 of 2024 in O.S.No.110 of 2011 dated 20.03.2025 is set aside, on condition that the petitioners pay a cost of Rs.5,000/- to the first respondent / plaintiff, within a period of two [2] weeks from the date of receipt of a copy of this order. Upon production of the payment receipt, the trial Court is directed to restore the suit in O.S.No.110 of 2011 and dispose of the same within a period of six [6] months thereafter. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.08.2025

Internet: Yes/No

Index: Yes/No

MR



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C.R.P.(MD)No.1910 of 2025

To

- 1.The Additional District Judge,
Kuzhithurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.1910 of 2025

M.DHANDAPANI, J.

MR

C.R.P.(MD)No.1910 of 2025

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