



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1945 of 2019

and

C.M.P.(MD).No.9936 of 2019

Raman (Died)

1.Vellaikannu

2.Madhavan

3.Sivalingam

4.Chellakannu

...Petitioner

Vs.

1.Meganathan (Died)

2.Raja (Died)

3.Chinnadurai

4.Vellaisamy (Died)

5.Kesavan

6.Baskaran

7.Banumathi

8.Balamurugan



(Respondent 6 to 8 are brought on record as LR's of the deceased 2nd Respondent vide court order dated 23.06.2025 made in CMP(MD) Nos. 9431, 9432 and 9433 of 2025 in CRP(MD) No.1945 of 2019 by MDIJ)

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9.Pushpa

10.Suresh Kumar

11.Vanitha

12.Gowri

13.Vijayalakshmi

(13th Respondent is brought on record as LR of the deceased 1st Respondent vide Court order dated 21.07.2025 made in CMP(MD) Nos. 11497 and 11500 of 2025 in CRP(MD) No. 1945 of 2019 by MDIJ)

...Respondents

PRAYER: Civil Revision Petition is filed under Section 115 CPC to set aside the order dated 19.07.2019 in I.A.No. 702 of 2018 in O.S.No. 170 of 2004 on the file of the District Munsif Cum Judicial Magistrate Court, Tiruppathur, Sivangangai District by this Court.

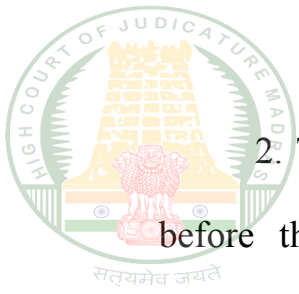
For Petitioner : Mr.K.Palmurugan

For R1, R2 & R4 : Died

For R3, R5, R13 : Mr.B.Prahalad Ravi

ORDER

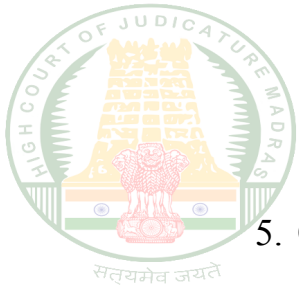
This petition has been filed seeking to set aside the order dated 19.07.2019 made in I.A.No. 702 of 2018 in O.S.No. 170 of 2004 on the file of the District Munsif Cum Judicial Magistrate Court, Tiruppathur, Sivangangai District.



2. The respondent Nos.1 to 5 herein filed a suit in O.S.No.170 of 2004 before the learned District Munsif cum Judicial Magistrate, Tiruppathur, Sivagangai District, seeking partition against one Raman and the first petitioner herein. The ex parte decree was passed on 25.01.2017 by the trial Court. Thereafter, the petitioners herein filed an interlocutory application in I.A.No. 702 of 2018 before the trial Court under Section 5 of the Limitation Act to condone the delay of 592 days in filing the set aside ex parte decree. However, the same was dismissed on 19.07.2019. Challenging the same, the present petition has been filed.

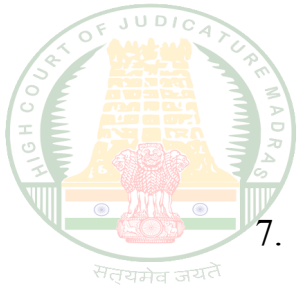
3. The learned counsel appearing for the petitioners would submit that the suit was filed in the year 2004 and subsequently, the suit was decreed as ex parte on 25.01.2017. He would further submit that the petitioners could not appear before the trial Court due to genuine reasons and that the delay was neither intentional nor wanton. It is further submitted that the petitioners are willing to bear reasonable costs for the delay.

4. Per contra, the learned counsel for respondent Nos.3, 5 and 13 submitted that the suit is pending since 2004, and the ex parte decree was passed in 2017. The petitioners have been negligent and only filed the application belatedly to drag on the proceedings. Hence, he prayed for dismissal of the revision.



5. On perusal of the records and submissions made by both sides, it is clear that the exparte decree was passed on 25.01.2017 and the petition to set aside the same was filed with a delay of 592 days. Though there is some delay, this Court is of the view that an opportunity should be given to the petitioners to contest the case on merits. The delay is not inordinate, and sufficient cause has been shown. Moreover, the petitioners have expressed their willingness to compensate the respondents. Therefore, in the interest of justice, this Court deems it fit to allow the Civil Revision Petition with costs.

6. The order dated 19.07.2019 made in I.A.No. 702 of 2018 in O.S.No. 170 of 2004 on the file of the District Munsif Cum Judicial Magistrate Court, Tiruppathur, Sivangangai District, is hereby set aside. The petitioners are directed to pay a sum of Rs.8,000/- (Rupees Eight Thousand only) each to the original plaintiffs in the suit as costs within a period of two weeks from the date of receipt of a copy of this order. Upon production of proof of such payment, the trial Court shall restore the suit in O.S.No.170 of 2004 to file and proceed with the trial on merits. The trial Court is directed to dispose of the suit within a period of six months from the date of restoration. The petitioners and the respondents are directed to co-operate with the trial.



7. Accordingly, the Civil Revision Petition stands allowed. No costs.

Consequently, the connected miscellaneous petition is also closed.

21.08.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The District Munsif Cum Judicial Magistrate Court, Tiruppathur, Sivangangai District.

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



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M.DHANDAPANI, J.

TSG

C.R.P.(MD)No.1945 of 2019

21.08.2025