



CRP(MD). No.253 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.253 of 2022
and CMP(MD) No.1124 of 2022**

Dhandapani

... Petitioner

Vs

Vs

Pasupathi Mudaliar (Died),
Bakkiam (Died),
Ponnammal (Died),
Soundaram (Died),
Rengasamy Mudaliyar (Died),
Dhanam (Died),

1. Saroja,

2. Pancharathinam

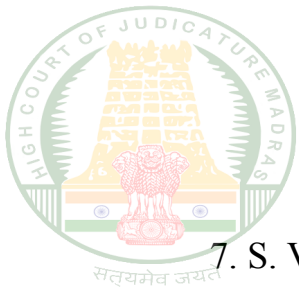
3. Devi Alias Deivanai

4. Jaya Alias Jayalakshmi

5. Srinivasan

6. Krishnamoorthy

Nagarajan (Died).



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7. S. Vijayakumar

8. Dhandayuthapani

9. Janaki

10. Radha

11. Thayammal

12. R. Kala

13. Anand

Saratha (Died).

14. Vijayalakshmi

15. Muthulakshmi

16. Gopalakrishnan

17. Pappu

18. Marudambal

19. Kamalakannan

20. Sankar

21. Manickavasagam

22. Muthammal

23. Rajaganapathy

24. Murugavel,

25. Shanmugapriya.

... Respondents

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PRAYER :- Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the impugned order passed in I.A.No. 527/2017 in A.S.No. 23 of 1999 dated 25.06.2020 on the file of the Principal District Judge, Karur.

For Petitioner : Mr.V.Karthikeyan
For Respondents : No appearance

ORDER

This petition has been filed against the order dated 25.06.2020 I.A.No. 527/2017 in A.S.No. 23 of 1999 on the file of the Principal District Judge, Karur.

2. The petitioner is the second defendant in the suit for partition, which was instituted by the husband of the first respondent in OS No. 204/1995 and the suit was decreed on 02.07.1998 and against which, the petitioner preferred an appeal suit in AS No.23/1999 and the same was dismissed for default on 27.12.2002 and the petitioner was not aware of the said dismissal and on coming to know of the said dismissal, he filed a petition in IA No.527/2017 under Section 5 of the Limitation Act to condone the delay of 3807 days in preferring the petition to restore the appeal. The said IA came to be dismissed. Challenging the same, the



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petitioner is before this Court.

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3. The learned counsel for the petitioner would submit that the petitioner is the appellant in the first appeal and it got dismissed for non appearance of the counsel on 27.12.2002 and it is true that there are more than 10 years delay in preferring the delay condonation petition for restoring the appeal to file and the reason assigned is that the counsel has not informed the stage of the appeal and the petitioner was under the impression that the appeal is still pending and hence, there occurred a delay, however, the petition came to be dismissed. The learned counsel would however submit that the Apex Court as well as this Court has repeatedly held that the application to condone the delay is to be considered leniently and therefore, prays for interference.

4. On the other hand, the learned counsel for the respondents would submit that admittedly the suit was filed by the plaintiff in the year 1995, it was decreed in the year 1998 and appeal was filed in the year 1999 and the same was dismissed in the year 2002, whereas the condone delay application was filed in the year 2017 with a delay of 3807 days,



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ie., after a lapse of 23 years of the suit, which will adversely affect the interest of the respondents and hence, prays for dismissal.

5. I have considered the rival submissions and perused the materials available on record.

6. Admittedly, the suit was filed and decreed in the year 1995 and 1998 respectively and the appeal suit was filed and the same in the year 1999 was dismissed for default on 27.12.2002. However, the application to restore the appeal suit was filed only in the year 2017 with a delay of 3807 days. Even after the decree was passed in the year 1998, the respondents are not in a position to execute the said decree and the application was filed in the year 2017 by the defendant to drag on the proceedings. Though the petitioner has raised a plea with regard to limitation, there is no proper explanation for filing the delay condonation application in time. The delay is enormous and there is no proper explanation for the same and hence, the trial Court has rightly dismissed the petition. Therefore, no interference is warranted to the order of the trial Court. Accordingly, the Civil Revision Petition is dismissed. No



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costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

RR

TO

1.The Principal District Judge, Karur.

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.253 of 2022**

Date : 15/07/2025