

C.R.P.(PD)(MD).No.1699 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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- 1.Dhanuskodi
- 2.Thangapandian
- 3.M.Jaisankar
- 4.Kasiviswanathan
- 5.K.Selvaraj (died)
- 6.Chinna Natchiyar
- 7.Jeya
- 8.Minor Pooja

*[Minor is represented through her
guardian/mother 7th petitioner]*

... Petitioners

*[Petitioners 6 to 8 are impleaded as legal heirs of the
deceased fifth petitioner vide order dated 18.06.2025]*

Vs.

- 1.Subramanian
rep. through his power agent
Mother Sundari

- 2.Palaniappan
- 3.Dhanaramu @ Poonjolai
- 4.Sithanathan
- 5.Ramanthan
- 6.K.Arunachalam
- 7.N.Jeyaraman

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8.Pandiselvam
9.Sakthivel

... Respondents

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PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 14.09.2021 made in I.A.No.345 of 2017 in I.A.No.285 of 2015 in O.S.No.77 of 2014 on the file of the Additional District Munsif Court, Karaikudi.

For Petitioner : Mr.V.George Raja
For R1 to R3 : Mr.B.Balamurugan

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 14.09.2021 made in I.A.No.345 of 2017 in I.A.No. 285 of 2015 in O.S.No.77 of 2014 on the file of the Additional District Munsif Court, Karaikudi.

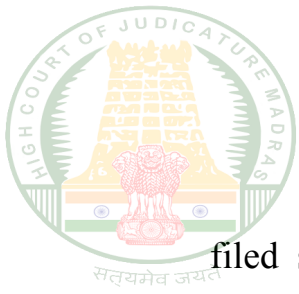
2.The petitioners 1 to 5 are the defendants 3, 4, 5, 6 and 9th defendants in the suit in O.S.No.77 of 2014. The respondents 4 to 9 are the defendants 1, 2, 7, 8, 10 and 11. The respondents 1 to 3 are the plaintiffs. The plaintiffs filed a suit for declaration to declare the suit



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property jointly belongs to the plaintiffs and the 11th defendant and the sale deeds executed by the first defendant and the subsequent sale deeds as null and void. The said suit was decreed *ex-parte* in favour of the plaintiffs/respondents 1 to 3. To set aside the said *ex-parte* decree, the petitioners herein filed I.A.No.285 of 2015 with a delay of 12 days and the said petition was also dismissed for non-prosecution on the ground that the learned counsel reported 'no instructions'. Thereafter, the petitioner filed in I.A.No.345 of 2017 to restore the condone delay petition with the delay of 722 days and the same was dismissed. Challenging the same, this Civil Revision Petition is filed.

3.The learned counsel for the petitioners would submit that admittedly, the respondents 1 to 4 and 9 are brothers and sisters. The respondents 1 to 3 filed a suit for declaration to declare the sale deeds executed by the first defendant and the also the subsequent sale deeds executed in favour of various other persons as null and void and to declare the plaintiffs and the 11th defendant are the joint owners of the suit property. The said suit was decreed *ex-parte* and other purchasers of the property aggrieved by the *ex-parte* decree granted by the trial Court,



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filed set aside the application with 12 days delay and the same was dismissed by the trial Court. Thereafter, the application to condone the delay in representation was also dismissed and the same is not sustainable.

4.The learned counsel for the petitioner, on instructions, further submits that the petitioners are ready to pay costs as fixed by the trial Court to the plaintiffs 1 to 3 enabling them to contest the case before the trial Court.

5.The learned counsel for the respondents/plaintiffs has expressed no objection for allowing this Civil Revision Petition.

6.Admittedly, the suit was decreed *ex-parte* and application filed by the petitioners to set aside the *ex-parte* decree was dismissed for non prosecution. In any event, an *ex-parte* decree cannot be allowed to continue as if the *ex-parte* decree is sustained, it would cause serious prejudice to the Petitioners.



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7.In view of the above, the petitioners are directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the plaintiffs, namely respondents 1 to 3 herein within a period of two weeks from the date of receipt of a copy of this order and produce the proof of such payment before the trial Court. On receipt of the same, the trial Court is directed to restore the suit and dispose of the same on its own merits and in accordance with law within a period of one year from the date on which the suit is restored on file.

8.Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2025

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

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

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M.DHANDAPANI,J.

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