



C.R.P.(NPD)(MD).No.1840 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1840 of 2022

and

C.M.P.(MD)No.8282 of 2022 and 11816 of 2025

1.S.Gurunathan

2.Bhavani

... Petitioners

Vs.

1.S.Janagakumari

2.Aandal

... Respondents

PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 20.06.2022 passed in I.A.no.153 of 2020 in O.S.No.535 of 2007 on the file of the Principal District Munsif Court, Madurai City.

For Petitioner : Mr.N.Pragalathan
For R1 : Mr.C.Vakeeswaran

ORDER

This petition has been filed challenging the fair and decreetal order dated 20.06.2022 passed in I.A.no.153 of 2020 in O.S.No.535 of 2007 on the file of the Principal District Munsif Court, Madurai City.



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2.The petitioner is the plaintiff in O.S.No.535 of 2007. The said suit was decreed on 10.03.2011. Thereafter, the first respondent, who is the third party to the suit proceedings, filed an application seeking to set aside the *ex-parte* decree with the delay of 3268 days under Section 5 of the Limitation Act. The said petition was allowed. Challenging the same, this Civil Revision Petition is filed.

3.The learned counsel for the petitioner submits that the suit was filed in the month of December, 2007, whereas the first respondent purchased the property only in the month of May, 2007. The petitioner has impleaded the real owner of the property in question and obtained an order as against her. Further, the first respondent filed a claim petition in the year 2014 and the same was dismissed in the year 2019. Subsequently, the petitioner has filed the present petition. The trial Court without considering all these aspects has allowed the application only on the ground that the suit was decreed *ex-parte* and the same is not sustainable.



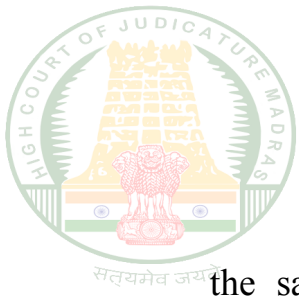
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4.Per contra, the learned counsel for the first respondent submitted that admittedly, in the year 2007, the first respondent purchased the property for valuable consideration by way of a registered document from the defendant in the original suit and he is in possession of the subject property from the date of purchase. However, the plaintiffs without impleading the first respondent has obtained a decree as against him. Only after receipt of notice in the execution proceedings, the first respondent came to know about the suit proceedings. Immediately, after knowing the suit proceedings, the petitioner has filed an application to set aside the decree and judgment. Hence, the trial Court has rightly appreciated all the issues and allowed the application filed by the first respondent.

5.Heard the learned counsel appearing for the petitioners and the learned counsel for the first respondent.

6.I have perused the materials placed on record. The first respondent claims that he has purchased the suit property prior to the filing of the suit. Whereas, the plaintiffs claim that the first respondent has purchased the subject property after filing of the suit. It is a disputed question of law and



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the same has to be decided before the trial Court by way of adducing evidence. However, the suit was decreed *ex-parte* as against the first respondent. Therefore, he filed an application to set aside the said *ex-parte* decree with the delay of 3268 days.

7.Admittedly, the suit was decreed *ex-parte* as against the first respondent. In any event, an *ex-parte* decree cannot be allowed to continue, since if the *ex-parte* decree is sustained, it would cause serious prejudice to the first respondent. The trial Court considering all these aspects has allowed the application and the same need not be interfered.

8.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.07.2025

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

1. The Principal District Munsif Court,
Madurai City.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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