



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.1941 of 2021

and

C.M.P.(MD).No.10438 of 2021

1.Christopher Mohanraj

2.Bama

...Petitioners

Vs.

Ayyachamy (Died)

2.A.Sarala

3.A.Shakthi Dharan

...Respondents

(Respondent Nos.2 and 3 are brought on record as legal representatives of the deceased sole respondent vide Court Order dated 07.08.2025 made in C.M.P.(MD).Nos.11689 to 11691 of 2025 in C.R.P.(MD).No.1941 of 2021)

PRAYER: Civil Revision Petition is filed under Section 115 CPC to set aside the fair and decretal order dated 04.09.2021 passed in I.A.No.1 of 2021 in O.S.No.199 of 2018 on the file of the Sub Court, Sankarankovil, by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Meenakshisundaram

For R-1 : Died

For R-2 & R-3 : No Appearance



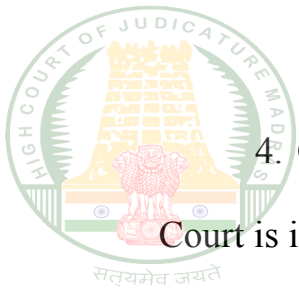
ORDER

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This petition has been filed seeking to set aside the fair and decreetal order dated 04.09.2021 passed in I.A.No.1 of 2021 in O.S.No.199 of 2018 on the file of the Sub Court, Sankarankovil.

2. The first respondent herein filed a suit in O.S.No.199 of 2018 before the learned Sub Judge, Sankarankovil, against the petitioners, seeking recovery of a sum of Rs.2,50,000/- with 12% interest. The said suit was decreed exparte on 16.12.2019. The petitioners herein filed an application in I.A.No.1 of 2021 before the trial Court under Order IX Rule 13 CPC along with a petition to condone the delay of 413 days. However, the trial Court dismissed the said petition on 04.09.2021. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioners submitted that the first petitioner, being bedridden, was unable to appear before the trial Court, which resulted in an exparte decree. Upon recovery, the petitioners promptly filed an application to set aside the said decree. However, the trial Court dismissed the application, which is not legally sustainable. The petitioners are also willing to pay costs as may be imposed.



4. Considering the submissions made and in the interest of justice, this

Court is inclined to allow this revision petition:

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(i). Accordingly, the order dated 04.09.2021 passed in I.A.No.1 of 2021 in O.S.No.199 of 2018 on the file of the Sub Court, Sankarankovil, is set aside. The exparte decree dated 16.12.2019 passed in O.S.No.199 of 2018 is also set aside. The suit in O.S.No.199 of 2018 is restored to file. The petitioners jointly are directed to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) before the trial Court within a period of four weeks from the date of receipt of a copy of this order. Upon such payment and production of proof before the trial Court, the trial Court shall restore the suit in O.S.No.199 of 2018 to its file and proceed with the matter on merits and in accordance with law. After restoration, the trial Court is directed to dispose of the suit within a period of six months from the date of restoration; and

(ii). If the petitioners fail to deposit the said amount before the trial Court within the period fixed by this Court, liberty is granted to the respondents to proceed with the execution petition in the manner known to law.

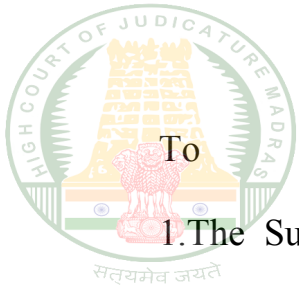
5. In the result, the Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

21.08.2025

Internet: Yes/No

Index: Yes/No

TSG



To

1.The Sub Court, Sankarankovil.

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



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M.DHANDAPANI, J.

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C.R.P.(MD)No.1941 of 2021

21.08.2025