



C.R.P(NPD)(MD)No.1959 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 29.01.2025**

**CORAM :**

**THE HONOURABLE Mr. JUSTICE G.ILANGO VAN**

**C.R.P(NPD)(MD)No.1959 of 2022**  
**and C.M.P.(MD)No.8997 of 2022**

Solammal

... Petitioner

Vs

1.Pandiammal

2.Alagammal

APV.Veeranan Ambalam @ Pasuvanathan (Died)

3.Veeranan @ Jeyapandi

4.Alagammal @ Jayalakshmi

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order dated 01.04.2022 in I.A.No. 445 of 2019 in unnumbered AS No... of 2019 on the file of the Sub Court, Melur.

For petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.A.Ajmalkhan for R2  
R1, R3 & R4 – No Appearance



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## **ORDER**

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This Civil Revision Petition is filed against the fair and decreetal order dated 01.04.2022 in I.A.No.445 of 2019 in unnumbered AS No... of 2019 on the file of the Sub Court, Melur.

### **2. The facts in brief:**

Suit in O.S.No.181 of 2006 was filed by one Pandiammal and Alagammal, who are the respondents 1 and 2 herein, against this revision petitioner and one A.P.V.Veeranan Ambalam @ Pasuванантан, seeking for the relief of partition, separate possession of their 5/9<sup>th</sup> share, rendition of accounts and for costs. The defendants entered appearance and filed their written statement. The defendants, thereafter, remained *ex parte*. Therefore, preliminary decree was passed by the judgment and decree dated 02.03.2007. Thereafter, final decree application was filed in I.A.No.486 of 2011. Pending the final decree proceedings, I.A.No.445 of 2019 was filed by the revision petitioner, before the appellate Court to condone the delay of 3676 days in preferring the appeal against the judgment and decree dated 02.03.2007, stating that the entire suit was taken care by her husband viz., A.P.V.Veeranan Ambalam @



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Pasuvanathan, who is dead now and due to some un-voidable circumstances, *ex parte* preliminary decree was passed. The petitioner's husband executed a registered settlement deed dated 02.06.1976, in favour of the petitioner in respect of his share. Since then she was in possession and enjoyment as the owner. Thereafter, her father-in-law executed a sale deed in respect of some other properties in her favour. Moreover, the petitioner's father-in-law viz., A.P.Veeranan Ambalam by sale deed dated 31.05.1995 and two other sale deed dated 10.01.2000, conveyed his share to her husband. Those facts ought to have been brought to the notice of the trial Court. Therefore, according to her, the joint family did not exist on the date of the plaint. Apart from that, it is stated that some of the properties were not included in the suit.

3. That application was resisted by the respondents by filing counter. After hearing both sides, the trial Court dismissed the petition by the order dated 01.04.2022. Against which, this Civil Revision Petition is preferred.

4. Heard both sides.



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**5.** In pursuance of the preliminary decree, as mentioned in the preamble portion, final decree application was filed in I.A.No.486 of 2011, wherein Commissioner was appointed. He filed his report. A copy of which has been filed by the respondents as typed set of papers. Commissioner was appointed on 28.11.2016. Apart from that another fact brought on record by the respondents is that the respondents 3 and 4 herein filed C.R.P.(MD)No.703 of 2020 against the order passed in I.A.No.446 of 2019, which was filed to condone the delay of 3588 days in filing the appeal against the preliminary decree in the main suit. They were not parties to the suit. But, it was filed on the ground that they are the legal heirs of Veeranan Ambalam. In the final decree application, they were added as parties. That application was dismissed. C.R.P. (MD)No.703 of 2020 was disposed of by the order dated 11.04.2022, by directing the trial Court to decide the shares of each members of the joint family in final decree petition.

**6.** Report was called for from the trial Court as to the stage of the final decree application. Report was submitted by Sub Judge, Melur,



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wherein it is stated that final decree application was posted for reporting compromise to 21.02.2025. What was the compromise proposed by the parties is not clear on record. Whatever it may be, it is seen that there is enormous delay of 3676 days in filing the main appeal. This revision petitioner is the second defendant in the main suit. Now according to her, she became the absolute owner of the property mentioned in the plaint by virtue of settlement deed executed by her husband and under a sale deed executed in favour of her husband; Those things were not brought to the notice of the trial Court. The appellate Court has rendered a finding, which are on merits cannot be taken into account in this petition.

7. A perusal of the record shows that at most indifferent and lethargic attitude was exhibited by the revision petitioner even at the time of trial. Repeated applications were filed by the revision petitioner. All those applications were dismissed finding that the revision petitioner did not *bonafidely* prosecuting the matter. Against those dismissal orders, she filed C.R.P.(MD)No.2538 & 2539 of 2016 before this Court wherein very same contentions were raised and the said revision petitions were



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dismissed by an order dated 14.12.2016. The ultimate portion of the said order is extracted hereunder for better appreciation:

*“11. It is well settled that party must be given an opportunity to put forth his/her case on merits and should not shut down at the threshold itself. At the same time, it is well settled that intention of the party must be bona fide and should not be mala fide. Applying the above principle, it is seen that various applications filed by the petitioner and her husband were dismissed for default. The suit is of the year 2006. Ex parte preliminary decree was passed on 02.03.2007 and application filed by the respondents 1 and 2 for passing final decree is pending. In view of the above facts, the petitioner has not given sufficient reasons for allowing these applications. The learned District Munsif, Melur, considering all the material facts in proper perspective, dismissed the applications by giving cogent and valid reason and there is no illegality or irregularity in the order passed by the Court below warranting interference at the hands of this Court and accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous petition is also closed.”*

So this itself is sufficient enough to conclude this revision petition also.



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**8.** As mentioned above, for the delay also no proper reasons were stated by the revision petitioner. She has simply stated that due to unavoidable circumstances, she could not take steps to file the appeal within time. Repeatedly, she has stated that her husband was taking care of the case and so she was unable to prosecute the case on her own. Those contentions were already rejected not once, but twice, which cannot be re-stated before this Court. Therefore, I find, absolutely, no reason to interfere with the order of dismissal passed by the appellate Court.

**9.** Therefore, this Civil Revision fails and dismissed. There shall be a direction to the final decree Court to proceed with the enquiry and dispose of the same within three months from the date of receipt of a copy of this order, considering the oldness of the matter. Consequently, connected miscellaneous petition is closed. No costs.

**29.01.2025**

NCC :Yes/No  
Index :Yes/No  
Internet : Yes/ No  
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**G.ILANGO VAN, J.**

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To

- 1.The Sub Court, Melur.
- 2.The Section Officer, VR Section,  
Madurai Bench of Madras High Court, Madurai.

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