



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].(MD)Nos.2013 & 2014 of 2021

and

C.M.P.(MD)No.10804 of 2021

C.R.P(MD)No.2013 of 2021

S.M.Hanifa (died)
1.Khaja Moideen

...Respondent/Plaintiff
... Petitioner/Respondent

Vs.

1.Pushpa
2.A.S.Sundaram

...Respondents 1 & 2/Petitioner 1 & 2/
Defendants 1 & 2

3.S.Durairamkumar
4.Vijay Lodge,
No.13B, Royal Road,
Cantonment,
Trichy-01.

...Respondent/Petitioners 3 & 4/
Defendants 3 & 4

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 08.10.2021 in I.A.No.1121 of 2021 in O.S.No.782 of 1999, on the file of the I Additional Subordinate Court, Tiruchirappalli and allow this Civil Revision Petition.



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For Petitioner : Mr.V.Panneer Selvam
For R1 to R4 : Mr.H.Lakshmi Shankar

C.R.P(MD)No.2014 of 2021

S.M.Hanifa (died)
1.Khaja Moideen

...Respondent/Plaintiff
... Petitioner/Respondent

Vs.

1.Pushpa
2.A.S.Sundaram

...Respondents 1 & 2/Petitioner 1 & 2/
Defendants 1 & 2

3.S.Durairamkumar
4.Vijay Lodge,
No.13B, Royal Road,
Cantonment,
Trichy-01.

...Respondent/Petitioners 3 & 4/
Defendants 3 & 4

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 08.10.2021 in I.A.No.1122 of 2021 in O.S.No.782 of 1999, on the file of the I Additional Subordinate Court, Tiruchirappalli and allow this Civil Revision Petition.

For Petitioner : Mr.V.Panneer Selvam
For R1 to R4 : Mr.H.Lakshmi Shankar



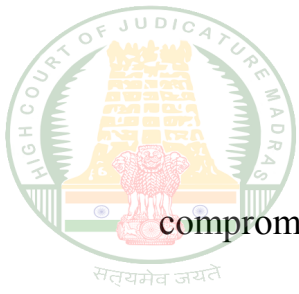
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COMMON ORDER

These petitions have been filed seeking to set aside the orders dated 08.10.2021 in I.A.No.1121 of 2021 in O.S.No.782 of 1999 and in I.A.No.1122 of 2021 in O.S.No.782 of 1999, on the file of the I Additional Subordinate Court, Tiruchirappalli.

2. The case of the petitioner is that the deceased S.M.Hanifa filed a suit in O.S.No.782 of 1999, on the file of the District Munsif, Tiruchirapalli seeking permanent injunction and the said suit was decreed ex-parte on 06.06.2002. However, after a lapse of decade, the respondents filed an application in I.A.No. 1121 of 2017 seeking to condone the delay in filing the set aside ex-parte decree and in I.A.No.1122 of 2017 seeking to set aside the ex-parte decree passed on 06.06.2022. Both the applications were clubbed together and by an order 08.10.2021 the trial Court allowed the applications. Challenging the same, the petitioners have filed these Civil Revision Petitions.

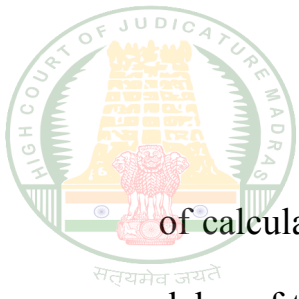
3. The learned counsel appearing for the petitioner would submit that admittedly, ex-parte decree was granted by the trial Court on 06.06.2022. The present suit has been filed by the petitioner only on the ground that there was a



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compromise in between the petitioner and respondent and on the basis of the compromise, the property was possessed by the petitioner. Challenging the compromise decree, the respondents filed O.S.No.557 of 1998 and they have also filed an application for joint trial. However, in view of the order passed in the present suit, the subsequent suit filed by the respondents was dismissed, after contest, in the year 2021. The said ex-party decree was granted in favour of the petitioners on 06.06.2002, however an application to set aside the ex-parte was filed only in the year 2021 with huge delay of 9 years and the delay of 9 years has not been properly explained. Though the respondents claim that they filed an application in the year 2005 before the trial Court, the seal and other things are manipulated one, without giving reasonable explanation for the delay of 9 years, the trial Court inadvertently taken three years delay and allowed the applications, which is not reasonable. Accordingly, prayed for allowing the Civil Revision Petition by setting aside the order dated 08.10.2021.

4. The learned counsel appearing for the respondents would submit that admittedly, ex-parte decree was passed on 06.06.2002, due to pecuniary jurisdiction I.A.No.1121 of 2017 and I.A.No.1122 of 2017 filed before the trial Court was kept pending without numbering and thereafter, it was numbered and represented with condone delay petition before the trial excluding for the period



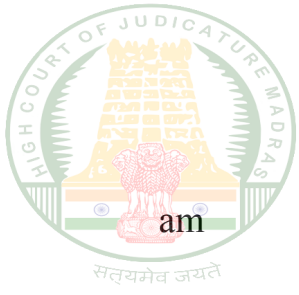
of calculating the delay, thereby, the petitioner filed I.A.No.1121 of 2021 with delay of three years and I.A.No.1122 of 2022 to set aside the exparte decree and both the petitions were allowed leniently by the trial Court by imposing a costs of Rs.3,000/- and Rs.5,000/- and the same need not be interfered with.

5. It is seen from the records that an exparte decree was passed as against the respondent and they filed an application to set aside the ex-parte decree along with condone delay application and the same was allowed with costs. Aggrieved against the said orders, the petitioners have filed these civil revision petitions. Considering the fact that an opportunity has to be given to the respondents to contest the suit, this Court is inclined to allow the Civil Revision Petitions. Accordingly, both Civil Revision Petitions are allowed. The petitioner shall pay a costs of Rs.10,000/- each totally Rs.20,000/- to the credit of O.S.No.782 of 1999, on the file of the I Additional Sub Court, Tiruchirappalli, thereafter the said amount disburse to the respondent. After depositing the costs, the trial Court shall restore the suit and decide the suit in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Internet: Yes/No

11.07.2025

Index: Yes/No



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To

- 1.The I Additional Subordinate Court,
Tiruchirappalli.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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