



C.R.P.(MD)No. 1989 of 2

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1989 of 2021

and

C.M.P.(MD)No.10660 of 2021

1.Jeyarajam

2.Kalyani

...Petitioners

Vs.

Manikandan

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the fair and decreetal order dated 07.10.2021 in I.A.No.171 of 2020 in O.S.No.85 of 2018 passed by the Sub Court, Aranthangi.

For Petitioners : Mr.Arul Jeniffer

For Respondent : Mr.S.Alagusundar



ORDER

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This petition has been filed seeking to set aside the fair and decreetal order dated 07.10.2021 in I.A.No.171 of 2020 in O.S.No.85 of 2018, passed by the Sub Court, Aranthangi.

2.Learned Counsel for the petitioners would submit that the petitioners / defendants 2 & 5 in O.S.No.85 of 2018, on the file of the Sub Court, Pudukkottai and the said suit was filed by the first respondent for partition and for non-appearance before the trial Court, an ex-parte decree was passed on 25.04.2019 and to set aside the ex-parte decree, the petitioners filed condone delay petition in I.A.No.171 of 2020 and the same was dismissed on the ground that the petitioners did not explain each and every day delay properly, thereby, aggrieved by the same, the present Civil Revision Petition has been filed.

3.Learned Counsel for the petitioners would submit that admittedly, the ex-parte decree was passed by the trial Court and the delay is only 292 days. Repeatedly, the Hon'ble Supreme Court as well as this Court has held that the delay has to be leniently viewed and the parties must be given an opportunity to contest the case. However, in the present case, leniency was not shown to the



petitioners. Thereby, the present Civil Revision Petition has been filed and accordingly, he prays for appropriate orders. He would further submit that the petitioners are ready to pay any reasonable cost to be imposed by this Court.

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4.Learned Counsel for the respondent vehemently contended that the trial Court dismissed the petition, since the petitioner did not adduce proper reasons for the delay, which need not be interfered with.

5.As rightly pointed out by the learned Counsel for the petitioners, repeatedly, the Hon'ble Supreme Court as well as this Court has held that the delay has to be leniently viewed and the parties must be given an opportunity to contest the case. Admittedly, there is a delay of 292 days in filing a petition to set aside the ex-parte decree and therefore, they filed the impugned I.A.No.171 of 2020, which came to be dismissed by the trial Court.

6.Considering the above, this Civil Revision Petition is allowed and the orders passed by the trial Court in I.A.No.171 of 2020 in O.S.No.85 of 2018 dated 07.10.2021 is set aside, on condition that the petitioners pay a cost of Rs.2,000/- to the respondent, within a period of two [2] weeks from the date of receipt of a copy of this order. Upon production of the payment receipt, the trial Court is directed to restore the suit in O.S.No.85 of 2018, in respect of the



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petitioners and dispose of the same in accordance with law. There shall be no

order as to costs. Consequently, the connected miscellaneous petition is closed.

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Internet: Yes/No

Index: Yes/No

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To

1.The Sub Court,
Aranthangi.

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



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M.DHANDAPANI, J.

MR

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