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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Eighteenth day of August Two Thousand and Twenty Five

PRESENT

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CMP(MD). No.10678 of 2017
in
CRP(MD)SR.No.32225 of 2016

1. Mohamed Abdul Hag(Died)
S/o.Nainar Mohamed
2. Mumtaj Begam,
W/o. Late. Mohammed Abdul Hag,
3. Nashrinbanu,
D/o. Late. Mohammed Abdul Hag,

... Petitioners

Vs

- 1 Jayaraman
 - 2 Foujiammal,
(Petitioners 2 and 3 and second respondent are brought as LR's of the deceased sole petitioner vide order passed in CMP(MD)Nos.13818 &13821 of 2024)
- ... Respondents

Prayer in CMP(MD). No.10678 of 2017:-

This Petition filed under Section 5 of Limitation Act,to condone the delay of 4221 days in filing the in CRP.S.R.No. 32225 of 2016.



Prayer in CRP(MD)SR.No.32225 of 2016:-

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This petition filed under Section 115 CPC against the petition and order dated 17.06.2025 made in E.P.No.19 of 2004 in O.S.No.340 of 2003 on the file of the Principal Sub Court, Dindigul.

ORDER:-

This Civil Miscellaneous Petition coming upon for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.G. Gomathi Sankar, Advocate for the Petitioners and of Mr.S. Harish, Advocate for the respondents, this Court made the following order:

This Civil Miscellaneous Petition has been filed to condone the delay of 4221 days in filing C.R.P.S.R.No.32225 of 2016.

2. The Civil Revision Petition has been filed to set aside the order passed dated 17.06.2005 made in E.P.No.19 of 2004 in O.S.No.340 of 2003 on the file of the Principal Sub Court, Dindigul.

3. The petitioner is the judgment debtor in O.S.No.340 of 2003 on the file of the learned Additional Sub Judge, Dindigul. The suit was decreed exparte on 30.09.2003 and the decree holder / respondent filed E.P.No.19 of 2004 for execution. In the said execution proceedings, the sale of the suit schedule property was ordered.

4. The learned counsel for the petitioner submitted that the petitioner may be permitted to file an Execution Application under Order XXI Rules 89 and 90



CPC to set aside the sale conducted in E.P.No.19 of 2004, dated 17.06.2005. It is further submitted that the petitioner is ready to deposit a sum of Rs.11,10,000/- (Rupees Eleven Lakhs and Ten Thousand only) towards the decree amount with 12% interest and prayed that the trial Court may be directed to defer the delivery proceedings till disposal of the said application.

5. Per contra, the learned counsel for the respondent submitted that the present revision is not maintainable, since the sale was already conducted on 13.04.2005, confirmed on 17.06.2005, and the sale certificate was registered on 23.12.2005. After a lapse of about 11 years, the petitioner has come forward with the present petition without any proper explanation and hence, the same is liable to be dismissed.

6. I have considered the submissions made on either side and perused the materials available on record.

7. Considering the limited request of the petitioner, this Civil Miscellaneous Petition and the Civil Revision Petition stand disposed of with the following directions:

(i) The petitioner is at liberty to file an Execution Application before the trial Court under Order XXI Rules 89 and 90 CPC challenging the sale.

(ii) The petitioner shall deposit a sum of Rs.11,10,000/- (Rupees Eleven Lakhs and Ten Thousand only) before the trial Court within a period of four (4) weeks from the date of receipt of a copy of this order. On such deposit, the trial



Court shall defer the delivery proceedings, if not already effected, and consider the Execution Application filed by the petitioner on merits and in accordance with law.
No costs.

// True Copy //

Sd/-
Assistant Registrar(CS III)

/ /2025
Sub Assistant Registrars CS (I/II/III/IV)

To

The Principal Sub Judge,
Dindigul.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai

+1cc to M/S.G.GOMATHI SANKAR adv SR-51918 DATED 18.08.2025



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ORDER DATED : 18/08/2025

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ORDER

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CMP(MD). No.10678 of 2017
in
CRP(MD)SR.No.32225 of 2016

Giving direction and etc.
as stated within.

JJ/09.09.2025 5P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023