



C.R..P.(NPD)(MD).No.790 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.790 of 2025

Bommaraj

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Nagamma Naicker

Bomma Naicker (Died)

Kannaiyan (Died)

Devaraj (Died)

... Respondents/Respondents/
Defendants

2. Kaliammal (died)

(Memo presented before the court on 23.01.2025 is recorded, as R2 died, and R3 to R5, who are already on record, are recorded as LRs of the deceased R2, vide order of this Court dated 23.01.2025 made in C.M.P(MD) No. 16646 of 2024 in C.R.P.SR.(MD) No. 68870 of 2023)

3. Nagappan



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4. Soolama Naicker

5. Raju

6. Saroja

.... Respondents/ LRS of deceased
Bomma Naicker

7. Susila

8. Dineshkumar (Minor)
C/o. Susila,
S/o. Kannaiyan
Gundumaachanalkenpatti,
Thandhoni Village,
Karur Taluk,
Karur District.
Minor Represented by Susila

9. Santhoshkumar (Minor)
C/o. Susila,
S/o. Kannaiyan
Gundumaachanalkenpatti,
Thandhoni Village,
Karur Taluk,
Karur District.
Minor Represented by Susila

... Respondents/ LRS of
deceased Kannaiyan

10. Kaliasammal

... Respondents/LRS of
deceased Naicker

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to set aside the fair and decretal order dated 28.03.2023 made in I.A.No.1 of 2020 in O.S.No.522 of 2002 on the file of the Principal Sub Court, Karur, and allow the Civil Revision Petition.



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For Petitioner : Mr.H.Thayumanaswamy

For R3, R4 & R6 : Mr.D.Nallathambi

ORDER

The plaintiff in O.S.No.522 of 2002, on the file of the Principal Sub Court, Karur, has filed the present Civil Revision Petition challenging the order passed by the trial Court, wherein, an application filed by the plaintiff to condone the delay of 4273 days, in filing an application to restore the suit has been dismissed.

2. A perusal of the records reveal that the revision petitioner/plaintiff has filed the above said suit for the relief of declaration of certain documents as null and void and for a permanent injunction restraining the defendants from alienating or creating encumbrance over the suit schedule properties.

3. When the suit was posted in the year 2002 for trial, the plaintiff has not appeared before the Court and the suit was dismissed for default. Thereafter, the present application has been filed in the year 2020 to condone the delay in filing an application to restore the suit with a delay of 4273 days.



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4. A perusal of the affidavit filed in support of the condone delay application reveals that the plaintiff was having certain medical disabilities and his counsel has passed away and therefore, he was not in a position to attend the Court or approach his counsel for restoring the suit. The trial Court after considering the length of delay and the reasons assigned by the plaintiff, has chosen to dismiss the application. Challenging the same, the present Civil Revision Petition has been filed.

5. A perusal of the records reveal that the plaintiff had been appearing in the connected proceedings and also some criminal proceedings. The defendants have filed Ex. R1 to R13 to establish the fact that the plaintiff has been attending these proceedings during the above said period. The reason assigned by the plaintiff has been falsified by the documents filed on the side of the defendants. The length of delay in restoring the suit and the reasons assigned by the plaintiff are not believable. The trial Court has rightly dismissed the application and there are no reason to interfere in the said order.



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6. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

14.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Sub Court,
Karur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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