



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.71 of 2022

Periyasamy

... Petitioner

Vs

1.Chelliah Chettiar

Pandaram Chettiar (died)

2.Issakki

3.Rajendran

4.Sudalai Chettiar

.. Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order made in I.A.No.756 of 2021 in O.S.No.90 of 2011 dated 25.08.2021 on the file of the Sub Court, Sankarankovil.

For Petitioner : MrA.R.Kannappan

For Respondents : Mr.R.Anand for R2 to R4

ORDER

This revision petition has been filed challenging the fair and decreetal order made in I.A.No.756 of 2021 in O.S.No.90 of 2011 dated 25.08.2021 on the file of the learned Subordinate Judge, Sankarankovil.



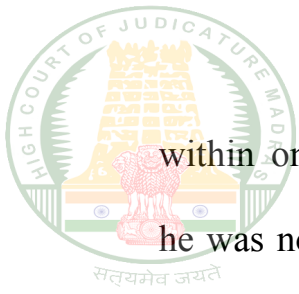
2. The learned counsel appearing for the petitioner would submit that the petitioner/plaintiff filed a suit in O.S.No.90 of 2011 for declaration and permanent injunction and the said suit was dismissed for default on 03.03.2014.

However, the petitioner was suffered from ill health and his counsel also not informed to him about the dismissal. Thereafter, he engaged another counsel and filed a restoration petition along with condone delay petition in I.A.No.756 of 2017 with a delay of 1120 days to restore the suit and the said condone delay petition was dismissed by the trial Court vide order dated 25.08.2021.

Challenging the same, this revision has been filed.

3. The learned counsel for the petitioner would further submit that it is admitted that there is a huge delay on the part of the petitioner and the said delay was properly explained. However, the case was dismissed for default for non-appearance of the petitioner. If the petitioner's suit is not restored, there is irreparable loss and hardship to the petitioner and for which the petitioner is ready to pay Rs.25,000/- cost to the respondent for the sufferings and delay in filing the restoration petition. Accordingly, he prayed for appropriate orders.

4. The learned counsel for the respondent/defendant vehemently contended that admittedly, the suit was dismissed for default in the year 2014 and for a period of next three years, the petitioner was not taken effective steps to restore the suit. Initially, he engaged a counsel and he changed the counsel



within one year and subsequently, another counsel was appointed. However, he was not produced any material before the trial Court to prove his ill health.

Therefore, the trial Court rightly dismissed the petition which need not be interfered by this Court.

5. Considering the submissions made by both side counsel, this Civil Revision Petition is allowed with cost of Rs.25,000/- payable to the respondent/defendant by the petitioner/plaintiff and the petitioner is directed to file a proof before the trial Court. On receipt of such proof, the trial Court is directed to restore the suit in O.S.No.90 of 2011 and dispose the suit after providing sufficient opportunity to the petitioner/plaintiff and the respondent/defendant.

08.07.2025

Internet: Yes/No

Index: Yes/No

NCC: Yes/No

PJL

To

1.The Sub Judge, Sankarankovil.

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



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M.DHANDAPANI, J.

PJL

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