



C.R..P.(NPD)(MD).No.2708 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.2708 of 2023

and

C.M.P(MD) No.14158 of 2023

Vangalayee Ammal (Died)

1. Balaji

... Petitioner/Petitioner/
2nd Defendant

Vs.

1.K.Natesan

2. N.Soundarajan

... Respondents/Respondents
Plaintiffs

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the fair and decretal order dated 11.07.2023 in I.A.No.1 of 2021 in O.S.No.527 of 2012 on the file of the Principal District Munsif, Karur.

For Petitioner : Mr.V.Nagarajan

For Respondents : Mr.S.Pon Senthilkumar



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ORDER

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The second defendant in O.S.No.527 of 2012, on the file of the Principal District Munsif Court, Karur, is the revision petitioner herein.

2. The respondents herein had filed the above said suit for the relief of permanent injunction, not to disturb their possession. Pending suit, the defendants were set *ex-parte* and an *ex-parte* decree came to be passed on 07.03.2014. Thereafter, the first defendant, who is the grandmother of the second defendant had passed away on 17.04.2014. The present application to condone the delay of 2515 days in filing an application under Order IX Rule 13 of C.P.C., has been filed on 23.02.2021. The said application was dismissed by the trial Court on 11.07.2023. Challenging the same, the present Civil Revision Petition has been filed.

3. A perusal of the affidavit filed in support of I.A.No.1 of 2021 reveals that the second defendant having lost his parents in his younger age was solely depending upon his grandmother, who was arrayed as the first defendant in the suit. Since she had also passed away on 17.04.2014, the



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petitioner was not in a position to take care of the suit. It is further contended in the affidavit that the petitioner/2nd defendant had moved to Coimbatore for his avocation and therefore, he was not in a position to attend the suit herein.

4. Per contra, the respondents/plaintiffs have marked certain documents during the cross examination of the revision petitioner to the effect that the petitioner came down to Karur, to execute a sale deed in favour of a third party in the year 2017. The trial Court disbelieved the version of the defendants that he had never visited Karur after the death of his grandmother. The trial Court further found that the second defendant has not offered any legally acceptable reason for condoning such a huge delay. This order is put to challenge in the present Civil Revision Petition.

5. According to the learned counsel appearing for the petitioner, the suit is for permanent injunction, which relates to the possession of the property and therefore, legal issues are involved and has got meritorious case to defend. Hence, he prayed that the delay may be condoned and the suit may be restored to file so that it can be contested on merits.



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6. However, the learned counsel appearing for the respondents/plaintiffs had contended that the delay has not been explained properly and therefore, the trial Court had rightly dismissed the application.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The trial Court has dismissed the application to condone the delay of 2515 days in filing the application under Order IX Rule 13 of C.P.C. The only ground urged by the second defendant is that he was out of town and he had never visited Karur to take care of the case. In fact, the second defendant had entered appearance through his counsel and filed a written statement. Therefore, he is aware of the pendency of the suit. Therefore, it is for him to follow up the suit proceedings and give instructions to his counsel. The second defendant cannot contend that he was away from the town and therefore, he could not follow the suit proceedings. That apart, the delay is huge and no legally acceptable reason has been assigned for condoning such a huge delay. The trial Court has rightly dismissed the said application and there are no merits in this Civil Revision Petition.



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9. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

12.02.2025

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

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

R.VIJAYAKUMAR,J.



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