



C.R.P.(MD)No.2882 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

Dated : 10.01.2025

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGOVAN

C.R.P.(MD)No.2882 of 2018

Asirvatham

... Petitioner/
Petitioner/
Plaintiff

Vs.

1.V.Seethalakshmi Ammal

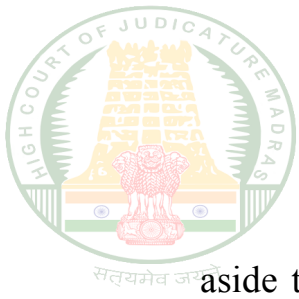
2.Village Administrative Officer,
Perungulam Village,
Perungulam.

3.Thasildar
Thasildar Office
Srivaikundam

4.Government of Tamil Nadu
through its District Collector
Thoothukudi District
Thoothukudi

... Respondents/
Respondents/
Defendants

Prayer : The Civil Revision Petition filed under Section 115 C.P.C., to set



C.R.P.(MD)No.2882 of 2018

aside the order passed in I.A.No.124 of 2018 in O.S.No.172 of 2013 on 06.09.2018 on the file of the District Munsif, Srivaikundam.

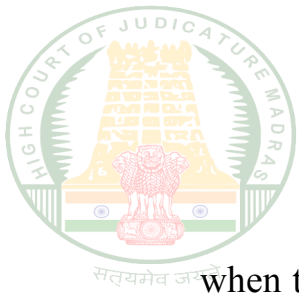
For Petitioner : Mr.T.A.Ebenezer
For R1 : No appearance
For R2 to R4 : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This Civil Revision Petition has been filed to set aside the order passed in I.A.No.124 of 2018 in O.S.No.172 of 2013 on 06.09.2018 on the file of the District Munsif, Srivaikundam.

2. The facts in brief is that the suit in O.S.No.172 of 2013 was filed by the revision petitioner against one Seethalakshmi Ammal/first respondent herein and the Government Officials/respondents 2 to 4 herein seeking a declaration that the suit property absolutely belongs to him and for a permanent injunction against the Government Officials not to assess the land tax in favour of the first respondent and for costs.

3. In the suit, the third respondent filed a written statement. But



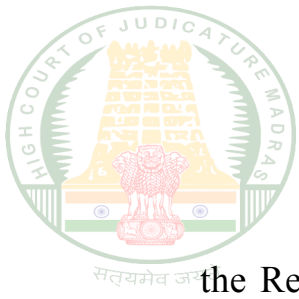
C.R.P.(MD)No.2882 of 2018

WEB COPY

when the suit was called for trial, the revision petitioner did not appear so the suit was dismissed for default by order dated 11.03.2015. Thereafter, I.A.No.124 of 2018 was filed by the revision petitioner under Section 5 of the Limitation Act to condone the delay of 985 days in filing petition to restore the suit. The trial Court, after hearing both the sides, dismissed the said petition stating that the reasons are not believable. Against which this Civil Revision Petition is preferred.

4. During the course of hearing in the present petition, one important aspect was brought to the notice of this Court that the first respondent is a non-existing person but by mistake patta and land tax were assessed in the name of non-existing person and on that ground, the revision petitioner filed the suit for declaration and permanent injunction. How the suit was filed against a non-existing person, for which, the learned counsel appearing for the revision petitioner would explain that since tax was assessed and patta was issued in the name of non-existing person, the revision petitioner had no other option except to file the suit.

5. The revision petitioner ought to have pursued the matter before



C.R.P.(MD)No.2882 of 2018

WEB COPY

the Revenue Authorities in a proper manner. But without exhausting the said remedy, this suit has been filed. At the same time, to resolve the issue, the third respondent was requested to submit a report after making an enquiry with regard to the issue. A report submitted. But however, it was pointed out by the learned Government Advocate that since patta was issued in the name of the first respondent, that can be corrected only by way of an appeal before the Revenue Authorities or by the order of the Court. According to the learned Government Advocate, *suo motu* correction of revenue records cannot be undertaken by them.

6. For simple issues, it appears that the matter is dragging on for several years. Since it seems that the case of the revision petitioner is genuine one even though the reason assigned for the delay might not be acceptable, for the above said reason this Court is of the view that the delay may be condoned so that the main matter can be taken up by the trial Court on its own merits.

7. In the result, this Civil Revision Petition is allowed without costs and the impugned order dated 06.09.2018 is hereby set aside. Accordingly,



C.R.P.(MD)No.2882 of 2018

The petition filed by the revision petitioner in I.A.No.124 of 2018 stands
WEB COPY
allowed.

10.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The District Munsif,
Srivaikundam..
- 2.Village Administrative Officer,
Perungulam Village,
Perungulam.
- 3.Thasildar
Thasildar Office
Srivaikundam
- 4.The District Collector
Government of Tamil Nadu
Thoothukudi District
Thoothukudi
- 5.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.2882 of 2018

G.ILANGO VAN,J.

cs m

Order made in
C.R.P.(MD)No.2882 of 2018

Dated : 10.01.2025