



CRP(MD). No.546 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 03/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRP (MD). No.636 of 2017

Ramasubramaniam

... Petitioner

Vs

1.Muthammal (Died)
2.M.Murugesan
3.M.Nagaraj
4.M.Aruljothi
5.M.Saroja

... Respondents

(R2 to R5 were brought on record as LR's of the deceased
sole respondent vide order dated 27.01.2025 in CMP(MD)
Nos.7576, 7578 and 7579 of 2021)

PRAYER :-Civil Revision Petition is filed under Section 115 of the Code
of Civil Procedure against the fair and decreetal order dated 18.10.2016
in IA No.75/2016 in OS No.638 of 2008 on the file of Additional District
Munsif Court, Dindigul.

For Petitioners : Mr.M.P.Senthil
For Respondent : Unserved



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ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 18.10.2016 in IA No.75/2016 in OS No.638 of 2008 on the file of Additional District Munsif Court, Dindigul.

2. The learned counsel for the petitioner would submit that the petitioner is the plaintiff. He filed a suit in OS No.638/2008 and the suit was decreed exparte on 12.01.2010 against the respondent/defendant. The respondents/defendants filed an interlocutory application to set aside the exparte decree in IA No.75 of 2016 with a delay of 2195 days. The said application was allowed. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would contend that admittedly against the exparte decree dated 12.01.2010, the very same petitioner filed EP No.41 of 2014 in which the deceased respondent appeared through her counsel and took time. Even then, the respondents are not taken any steps to set aside the exparte decree, which itself shows



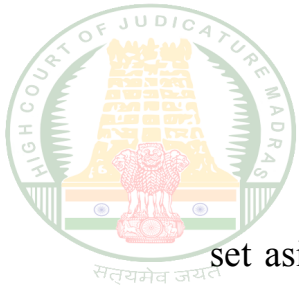
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that they are diligent enough to prosecute the matter. After four years, the respondents now filed an application to set aside the exparte decree with an application to condone the delay of 2195 days, which is not sustainable. It is also submitted that the petitioner has also submitted a letter for obtaining the decree, which was not executed even after execution petition and on the sole ground, the learned counsel prays for interference to the order of the Court below.

Though the Civil Revision Petition is of the year 2017 and service has been completed by issuing paper publication, the petitioner has not taken any steps to list the main civil revision petition nor the civil revision petition is posted for final disposal.

Heard the learned counsel for the petitioner and perused the materials available on record.

Admittedly, the respondents suffered an exparte decree in the year 2010 itself. However, the deceased respondent/defendant claimed that she fell ill and due to lack of knowledge, she could not file a petition to



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set aside the exparte decree and hence, the same was filed along with a
condone delay petition and the said petition was allowed. Time and
again, this Court and the Apex Court has been condoning the delay



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4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The issue in hand has already been decided by this Court in a batch of civil revision petitions, which was filed by the same petitioner trust. In the said batch of civil revision petitions, this Court, while dismissing the civil revision petition, held that since the respective decree obtained by the petitioner trust are against the parties, who are no more and who have already been vacated the suit properties, would not survive any purpose and hence, directed the petitioner to approach the competent civil Court. In the present case also, though notice was served on the respondent, the petitioner was unable to serve notice on the respondent. Hence, the civil revision petition stands dismissed and the petitioner trust is directed to approach the competent civil Court afresh and agitate the issue. However, the period spent before this Court as well as the trial Court stands excluded for the purpose of limitation. No costs.



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NCC : Yes/No
Index : Yes/No

RR

TO

1.The District Munsif Court, Pattukottai.

2.VR Section

Madurai Bench of Madras High Court, Madurai.

M.DHANDAPANI,J

RR

**ORDER
IN**

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Date : 03/06/2025