



C.R..P.(NPD)(MD).No.1029 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.1029 of 2025

and

C.M.P(MD) No.5587 of 2025

Subramanian

... Petitioner/Petitioner
Plaintiff

Vs.

1. Paramasivam
2. Amsavalli (died)

... Respondents/
Respondents/Defendants

3. P. Suresh Kannan

4. P. Kalaivani

5. P. Ramesh Kannan

... Proposed Respondents

(Respondents 3 to 5 are brought on record as LR's of the deceased 2nd respondent vide order of this Court, dated 24.10.2024 made in C.M.P(MD) Nos.14761 to 14763 of 2024 in C.R.P(MD)SR No.70781 of 2022)



C.R..P.(NPD)(MD).No.1029 of 2025

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, to set aside the order dated 31.10.2019 passed by the II Additional Sub-Court, Trichy, in I.A.No.778 of 2018 in O.S.No.513 of 2011.

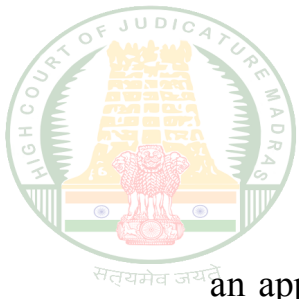
For Petitioner : Mr.T.Lenin Kumar

For R1 and R3 to R5 : Mr.N.R.Murugesan

ORDER

The plaintiff in O.S.No.513 of 2011 on the file of Sub Court, Trichirappalli, has filed the present Civil Revision Petition challenging the dismissal of his application filed to condone the delay of 895 days in filing an application to restore the suit.

2. A perusal of the records reveal that the suit has been filed for the relief of permanent injunction restraining the defendants for putting up construction in the suit schedule property. The plaintiff has further prayed for a decree for recovery of possession from the defendants. When the suit was posted for trial on 07.03.2016, the plaintiff has not appeared and it was dismissed for default. Thereafter, the plaintiff has filed an application in I.A.No.778 of 2018, on 28.03.2018 to condone the delay of 895 days in filing



C.R..P.(NPD)(MD).No.1029 of 2025

WEB COPY

an application to restore the suit. The said application was dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3. A perusal of the affidavit filed in support of I.A.No.778 of 2018 reveals that the petitioner was affected with jaundice and therefore, he could not contact his counsel in time. The said reason was disbelieved by the trial Court and the said condone delay application has been rejected.

4. According to the learned counsel appearing for the revision petitioner, the counsel has not informed about the appropriate date of hearing and therefore, he could not get in touch with the counsel for proceeding with the trial.

5. However, the learned counsel appearing for the respondents herein had pointed out that the reason assigned for condoning the delay is jaundice and that too, a period of 895 days and therefore, the trial Court has rightly dismissed the said application.



C.R..P.(NPD)(MD).No.1029 of 2025

WEB COPY

5. Heard the learned counsel appearing on either side and perused the material records.

6. A perusal of the affidavit filed in support of the condone delay application reveals that the delay of 895 days is sought to be condoned only on the ground that the plaintiff has affected with jaundice and he could not contact his counsel. The period of delay and reason assigned are not believable and therefore, the trial Court has rightly rejected the condone delay application and there are no merits in the Civil Revision Petition.

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

25.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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C.R..P.(NPD)(MD).No.1029 of 2025

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To

1. The II Additional Sub-Court,
Trichy.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(NPD)(MD).No.1029 of 2025

R.VIJAYAKUMAR,J.

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C.R.P(NPD)(MD)No.1029 of 2025

25.03.2025