



C.R.P.(MD)No.2472 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.2472 of 2022

Panneerselvam

... Petitioner

-VS.-

Jeyaraman (Died)

1.Jeyalalitha
2.Suryaprakash

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order, dated 17.11.2022 in I.A.No.144 of 2021 in O.S.No.161 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Thiruvidadimarudhur, Thanjavur District by allowing this Civil Revision Petition.

For Petitioner :Mr.AN.Ramanathan
For Respondents :Mr.N.R.Balaji



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ORDER

The present Civil Revision Petition has been filed to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Thiruvidadaimarudhur, Thanjavur District in I.A.No.144 of 2021 in O.S.No.161 of 2011, dated 17.11.2022.

2.Heard Mr.AN.Ramanathan, learned Counsel for the Revision Petitioner and Mr.N.R.Balaji, learned Counsel for the respondents.

3.The petitioner is the the first defendant in the suit in O.S.No.161 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Thiruvidadaimarudhur, Thanjavur District. The first respondent herein is the plaintiff in the suit in O.S.No.161 of 2011. The said suit was filed for permanent injunction to restrain the 1st defendant, his men, agents, servants or anybody claiming under them from in any way in any manner to alienate the suit property and for other reliefs. During the pendency of the suit, the plaintiff died and his legal heirs were impleaded as parties to the suit.



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4.In the said suit, the petitioner/first defendant was set *ex parte* vide order, dated 18.7.2013 and thereafter, the suit was partly allowed by the learned District Munsif cum Judicial Magistrate, Thiruvidadimarudhur, Thanjavur District, vide judgment and decree, dated 28.02.2021. Thereafter, the petitioner/first defendant has filed an application in I.A.No.144 of 2021 in O.S.No.161 of 2011 to set aside the *ex parte* order, dated 18.07.2013. The learned District Munsif cum Judicial Magistrate, Thiruvidadimarudhur, Thanjavur District, vide order, dated 17.11.2022, by taking into consideration the inordinate delay in filing the written statement and in the absence of any explanation given by the defendant, had dismissed the said application. Challenging the said order, the present Civil Revision Petition has been filed.

5.The learned Counsel for the petitioner submitted that an *ex-parte* decree was passed on the ground that no written statement was filed within the time stipulated, as contemplated under the Code of Civil Procedure and there is a delay of 2753 days. The learned Counsel for the Revision Petitioner submitted that the summon, which is alleged to have been served on the



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Revision Petitioner is being signed by some other person and it is being witnessed by the plaintiff. He relied upon the signature, which finds place in the summon and that of the passport of the petitioner and submitted that the both the signatures are totally different and the summon was witnesses by the plaintiff. Hence, it is clear that summon was not served on the petitioner and hence, the order, dated 17.11.2022, was passed without considering the materials available on record and seeks interference of this Court.

6.*Per contra*, the learned Counsel for the respondent submitted that both the plaintiff and the defendant are brothers and therefore, the suit for injunction has been filed. He further submitted that by receiving the summons issued by the trial Court, the petitioner herein has not filed any written statement and with a huge delay of 2753 days, the petitioner had filed the application before the trial Court to set aside the order, dated 18.07.2013, which has been rightly dismissed by the trial Court, which needs no interference and seeks dismissal of this petition.



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7.The only point for consideration is whether the summon was served on the petitioner/first defendant and whether the inordinate delay of 2753 days has been explained or not?

8.It is not in dispute that according to the respondent/plaintiff, the summon was served on the defendant and therefore, an *ex parte* order was passed, as the defendant did not appear in the suit. *Per contra*, on perusal and comparison of the signatures found in the summon as well as in the passport issued by the Republic of India in Passport No.F4286935 in the naked eyes, the signatures are totally different, which needs no scientific comparison. It is also to be taken into consideration that at the time of serving summon on the petitioner/first defendant, according to the Revision Petitioner, it has been witnessed by the plaintiff, who himself has instituted the suit against the first defendant. The learned Counsel for the respondent has not disputed the photograph and the signature found in the copy of the passport. Further, it is to be noted that the as the petitioner was not served, there is an inordinate delay of 2753 days and the petitioner has also explained such inordinate delay stating that the the summon was not received by someone else and witnessed by the



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plaintiff.

9.In view of the same, the impugned order passed passed by the learned District Munsif cum Judicial Magistrate, Thiruvidaimarudhur, Thanjavur District. in I.A.No.144 of 2021 in O.S.No.161 of 2011, dated 17.11.2022 is hereby set aside and the suit is restored and the petitioner is at liberty to file a written statement within a period of 30 days from the date of receipt of a copy of this order.

10.In the result, the Civil Revision Petition is allowed. No costs.

08.12.2025

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

cmr

To

The District Munsif cum Judicial Magistrate,
Thiruvidaimarudhur, Thanjavur District.



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N.SENTHILKUMAR, J.

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