



C.R.P(MD)No.2777 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.10.2025

DELIVERED ON: 26.11.2025

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.R.P(MD)No.2777 of 2025

and

C.M.P(MD)No.16177 of 2025

Amutha

...Petitioner/Petitioner/
7th Respondent/Nil

Vs.

P.Meiyappan

...Respondent/Petitioner/
Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to call for the records and set aside the fair and decreetal order dated 15.07.2025 passed in E.A.No.08 of 2023 in E.P.No.06 of 2020 in O.S.No.93 of 1997 on the file of the learned District Munsif, Devakottai and allow this Civil Revision Petition with costs.

For Petitioner : M/s.K.Shwathini

ORDER

The instant Civil Revision Petition has been filed to call for the records and set aside the fair and decreetal order dated 15.07.2025 passed



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in E.A.No.08 of 2023 in E.P.No.06 of 2020 in O.S.No.93 of 1997 on the file of the learned District Munsif, Devakottai.

2. The learned counsel for the petitioner submits that the respondent has filed a suit for declaration and recovery of possession, in which the suit properties had been described as measuring 2 cents out of the entire extent of 4.02 cents. It is the case of the respondent that the suit properties in the entirety belongs to his forefathers and that the same had been encroached upon by the petitioner's father along with two other defendants. The suit was originally dismissed by the Court below. Against which, the respondent has preferred an appeal. The appeal suit was allowed by setting aside the judgment of the Trial Court and decreeing the suit. Against which, the petitioner preferred a second appeal, which also came to be dismissed. Thereafter, the respondent filed the execution petition seeking delivery of the execution of the suit properties.

3. The learned counsel for the petitioner submits that the second appeal filed by the petitioner had been dismissed for default and by taking advantage of the same, the respondent is now attempting to evict



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the petitioner. He submits that the decree is not executable, as the schedule mentioned properties had not been clear and is vague. He submits that the petitioner was unaware of the execution proceedings. In the execution petition, an *ex parte* order has been passed and on knowing of the same, the petitioner contacted counsel and immediately filed an application to condone the delay in setting aside the *ex parte* order. However, the Execution Court dismissed the same. He submits that if the delay is not condoned, the petitioner would be put to irreparable loss and undue action. Hence, he seeks interference of this Court to set aside the impugned order, condone the delay and direct the Court below to take on file the application to set aside the *ex parte* order.

4. The learned counsel for the respondent submits that having failed till the second appeal and having substituted in the place of the first defendant, the petitioner was not diligent in prosecuting the execution petition and the *ex parte* order was passed. After nearly 450 days, the petitioner filed the application to set aside the *ex parte* order along with the application to condone the delay. The present petition has been filed only to protract the proceedings and prevent the respondent from enjoying the fruits of the decree granted in his favour as early as in



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the year 1999. Even though the second appeal was dismissed for default, no steps were taken to restore the same. Therefore, he prays this Court to dismiss the revision.

5. I have considered the submissions made by the learned counsel on either sides and perused the materials available on record.

6. A perusal of the affidavit filed in support of the application to condone the delay does not indicate any substantial reasons as to why the delay should be condoned. The *ex parte* order was passed on 12.03.2021 and there has been no reasons attributed by the petitioner why he had not in spite of being served with the summons appeared before the Court and allowed them to be set *ex parte*. Even assuming that the Covid -19 Pandemic period is to be excluded, there is no reasons attributed for 414 days of delay. It is well settled principle of law that the reasons for delay ought to have been explained for each and every day. In the affidavit, no reasons whatsoever had been stated as to why there has been a delay in filing the application except to plead that the petitioners are illiterate and it would cause them hardship if the delay is not condoned.



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7. This court is unable to comprehend such an application. For the aforesaid reasons and for the reasons stated by the learned Judge in the order impugned, this court is of the view that the Civil Revision petition lacks merits in any manner.

8. In fine, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

26.11.2025

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

1.The District Munsif, Devakottai.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.KUMARESH BABU,J.

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