



CRP(MD). No.3206 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05/11/2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

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and

C.M.P(MD).No.17725 of 2025

1. Ramar,
2. Vijayarajan,
3. Dhanalakshmi,
4. Ganeshwari,
5. Suriyalakshmi,
6. Gokilavani,
7. Jayalakshmi,
8. Subasri,
9. Kathirvelpandian (Minor),

... Petitioners

Vs

1. K.K.Marirathinam Alias Arumu,
2. Samidurai,

... Respondents

PRAYER :- Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the Fair and Decreetal order of the Learned Sub Judge, Theni in IA No.9 of 2024 in IA No.3 of 2017 in SOP No.2 of 2013 dated 16.06.2025 on the file of the Learned Sub Judge, Theni.



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For Petitioners : Mr.M.Prabu,
For R1 : Mr.M.Kannan

ORDER

This Civil Revision Petition had been filed to set aside the fair and decreetal order of the Learned Sub Judge, Theni in IA No.9 of 2024 in IA No.3 of 2017 in SOP No.2 of 2013 dated 16.06.2025 on the file of the Learned Sub Judge, Theni.

2. The learned counsel for the petitioners would submit that the petitioners had filed a S.O.P, in which a succession certificate was originally granted on 02.04.2014 and the respondents have filed an application in I.ANo.3 of 2017 seeking to revoke the same under Section 383 of the Indian Succession Act. The said application had been listed for arguments, at which point, the petitioners came into possession of certain documents that would substantiate his case. Hence, he taken out of an application to re-open I.A, which had already been reserved for orders. The said I.A was returned for certain compliance and due to inadvertence, the same was not re-presented within the time stipulated, it was re-presented with the delay of 240 days. Hence, an application to



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condone the delay had been filed, the Court below without considering the case of the petitioners had dismissed the application to condone the delay, on the sole ground that the petitioners were attempting to protract the proceedings. He would submit that the petitioners have a case on merits to sustain the grant of the succession certificate by producing the said documents and he approached the Court for re-opening the said I.A. He would submit that such a finding would only cause undue harshness and prejudice to the petitioners and therefore, prays this Court to set aside the impugned order and thereby condone the delay with a direction to the Court below to take up the application for re-opening on its merits and in accordance with law.

3. Countering his arguments, Mr.M.Kannan, the learned counsel appearing for the first respondent would submit that an application had been filed by the first respondent under Section 383 of the Indian Succession Act as early as 2017, in which evidence on the side of the respective parties had already been completed and the matter listed for arguments. At that point of time, an application in I.A.No.6 of 2023 was filed seeking to recall his side of witnesses, which was also dismissed on



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03.07.2023. Thereafter, he had filed an application in I.A.No.7 of 2023 to stay the proceedings until he filed a revision against the order passed in I.A.No.6 of 2023. No proof was filed indicating that a revision had been filed as against the order passed in I.A.No.6 of 2023, the Court below dismissed I.A.No.7 of 2023 on 03.01.2024. Thereafter, the petitioners has filed an application on 07.03.2024 to re-open I.A.No. 3 of 2017, which had already been listed for arguments, thereby prolonging the case for arguments. The said application was also returned and without re-presenting the same, the petitioners had been taking time and thereafter taken out of an application to condone the delay in re-presenting the said application, which was returned as early as in the month of March 2024. Even in the said application, after many adjournments, the arguments were concluded on 13.04.2025 and the order of dismissing the application was pronounced on 16.06.2025. Therefore, he would submit that an attempt has been made by the petitioners only to prolong to revoke the application, which is pending for more than 8 year. Hence, he prays for dismissal of this petition.

4. I have considered the submissions made on either sides and carefully perused the material available on record.



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5. Even though, an application had been filed in the month of February 2024 to re-open I.A.No.3 of 2017 and returned on 07.03.2024, the petitioners in support of their application has not given any reasons whatsoever for the delay in re-presentation. Only a causal affidavit had been filed to condone the delay in representation.

6. The Court below has also recorded the conduct of the petitioners in filing the application after application, after the evidence had been recorded and I.A had been listed for arguments. Therefore, this Court is of the view that there is no infirmity in the order passed in rejecting the application to condone the delay. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

05.11.2025

tta

TO

Sub Court, Theni.

5/6



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K.KUMARESH BABU,J

tta

**ORDER
IN
CRP(MD) No.3206 of 2025**

Date : 05/11/2025