



C.R.P(MD)No.3288 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.3288 of 2023

Ramasamy

... Petitioner / Appellant

Vs

1.The District Collector,
Collectorate Office,
Dindigul District.

2.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

3.Kalavathi

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order made in I.A.No.1 of 2022 in A.S.No.--of 2021 in CFR No.7608 of 2021 by the Principal Sub Court, Dindigul, dated 07.08.2023.

For Petitioner : Mr.D.Venkatesh

For R1 and R2 : Mr.N.Ramesh Arumugam
Government Advocate

For R3 : Mr.S.Lenin Prabu



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ORDER

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This Civil Revision Petition is filed to set aside the fair and decreetal order made in I.A.No.1 of 2022 in A.S.No.--of 2021 in CFR No.7608 of 2021 by the Principal Sub Court, Dindigul, dated 07.08.2023.

2. The suit in O.S.No.174 of 2014 was filed by this revision petitioner against the respondent herein seeking the relief of declaration that he is the legal representative of the deceased Andichi who was reported to be dead on 28.05.2014. The suit was decreed as prayed for without cost. Now the revision petitioner intended to file an appeal. On the ground that mistake was committed in the plaint stating that instead of declaring the revision petitioner as the direct legal heir of the deceased Andichi, it has been wrongly mentioned as brother of the deceased Andichi. When the decree was produced before the revenue authorities, the above said defect came to their notice. So because of the decree and judgment, no benefit can be derived by the revision petitioner. On that account, they intended to file an appeal and because of the above said issue, there was a delay of 1244 days. To condone the delay in filing the appeal, the petition in I.A.No.1 of 2021 was filed, which came to be



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dismissed by this appellate Court. Against which this Civil Revision
Petition is preferred.

3. The learned Principal Subordinate Judge, Dindigul, took a view that the defect in the decree was known to the revision petitioner as early as on 13.07.2021 when his request was rejected by the revenue officer. So he ought to have filed the appeal within the time from the date of notice of the defect. But after a prolonged time, this petition is filed stating unreasonable reasons.

4. Without going to the merits of the claim made by the revision petitioner, I am of the considered view that the revision petitioner states that when the decree passed in the main suit which is unexecutable in nature, opportunity must be given to him to ventilate his grievance. If the petition is dismissed, then the valuable right will be affected. Driving the revision petitioner to file another suit which may not be in the interest of the parties. Instead of resorting to such a remedy, the inconvenience caused to the third respondent herein, can be compensated by way of cost, since other respondents are only Government officials. On that



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account, the petitioner was directed to pay a sum of Rs.5,000/- to the third respondent on or before 09.12.2024.

5. In the result, since it is stated that the amount has been deposited and a memo to that effect was also filed, this Civil Revision Petition stands allowed and the order of dismissal passed by the trial Court in I.A.No.1 of 2022 in CFR No.7608 of 2021 by the Principal Sub Court, Dindigul, dated 07.08.2023, is set aside and the same is allowed. The Appellate Court may process the appeal in A.S.No.--of 2021 and decide the same in accordance with law.

10.01.2025

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

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- To
- 1.The Principal Subordinate Judge, Dindigul.
 - 2.The District Collector, Collectorate Office, Dindigul District.
 - 3.The Tahsildar, Nilakottai Taluk, Dindigul District.
 - 4.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

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