

CMP(MD). No.12300 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Thirty First day of July Two Thousand and Twenty Five

PRESENT

THE HONOURABLE MR. JUSTICE G. ARUL MURUGAN

CMP(MD). No.12300 of 2025

in

SA(MD)No.682 of 2021

1. Vadivel

2. Ganesan

Vs

Nagarajan,

... Petitioners/ Appellants

... Respondent/ Respondent

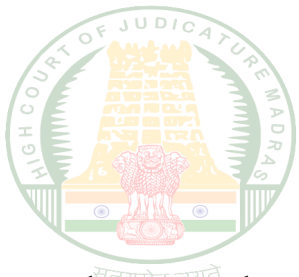
Prayer in CMP(MD). No.12300 of 2025:-

Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to set aside the order dated 21.04.2023 passed in S.A.(MD) No.682 of 2021 on the file of this Honourable Court and restore the same.

Prayer in SA(MD)No.682 of 2021:-

Second Appeal is filed under Section 100 of Code of Civil Procedure, against the judgment and decree dated 04.07.2019 passed in A.S.No.94 of 2017 on the file of the Subordinate Judge, Aranthangi confirming the judgment and decree dated 24.11.2015 passed in O.S.No.9 of 2012 on the file of the District Munsif Court, Aranthangi.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon



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hearing the arguments of Mr.R. Paranjothi, Advocate for the Petitioners and of Mr.N.Tamilmani, Advocate for the respondent, this Court made the following order:

"This Civil Miscellaneous Petition is filed to set aside the order dated 21.04.2023, dismissing the Second Appeal for non prosecution and to restore the Second Appeal.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The appeal came to be dismissed on 21.04.2023 for non prosecution. The petitioner had filed this Civil Miscellaneous Petition to restore the appeal. In the meantime, since there was a delay they have filed C.M.P(MD)No.1219 of 2024. After notice to the respondents, the petition for condoning the delay was considered and a detailed order was passed on 14.07.2025 by putting the petitioners / appellants on terms. The condition imposed since having been complied with, the present Civil Miscellaneous Petition has been numbered and listed.

4. In view of the orders passed on 14.07.2025 in the other Civil Miscellaneous Petitions, I am of the considered opinion that the present Civil Miscellaneous Petition could be allowed and the Second Appeal could be restored to file to allow the appellant to contest the appeal on merits.



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5. Learned counsel for the respondent submits that at every stage, the appellant is only dragging the proceedings and in view of the appeal being restored, date may be fixed in the appeal and taken up for hearing.

6. Considering the above, this Civil Miscellaneous Petition is ordered and the Second Appeal is restored to file and in view of the apprehension expressed by the respondents, post the Second Appeal for final hearing on 19.08.2025.

Sd/-

Assistant Registrar (CS.II)

// True Copy //

/ /2025

Sub Assistant Registrar
(CS-I/II/III/IV)

pnn

TO

1. The Subordinate Judge,
Aranthangi
2. The District Munsif,
Aranthangi.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai



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ORDER DATED : 31/07/2025

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ORDER

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CMP(MD). No.12300 of 2025
in
SA(MD)No.682 of 2021

Giving direction and etc.
as stated within.

SL (14.08.2025)/4P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.