



CRP(MD). No.3011 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24/10/2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.3011 of 2025

1. Thirupathi Venkadachalam,

2. Kariyamal,

... Petitioners

Vs

1. Seethalakshmi,

2. Vennila,

3. Mahalakshmi

... Respondents

PRAYER :-

Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the petition and order dated 18-10-2024 in IA(SR) No. 3646 of 2022 in O.S.No. 153 of 2010 on the file of the District Munsif Court, Kovilpatti.

For Petitioner : Mr. S.Ramesh,
Advocate.



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ORDER

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This Civil Revision Petition is filed to set aside the petition and order dated 18-10-2024 in IA(SR) No. 3646 of 2022 in O.S.No. 153 of 2010 on the file of the District Munsif Court, Kovilpatti.

2. Learned counsel for the petitioners would submit that the petitioners are the defendants 2 and 3 in a suit where they were set *ex parte*. Immediately having knowledge of the same, the petitioners have preferred an application to set aside the *ex parte* decree. However, the said application had been kept pending, awaiting the records from the learned Subordinate Court, Kovilpatti and had been returned on 18.10.2024 indicating their appeal suit in A.S.No.1 of 2019 as against the judgment and decree of the trial Court is pending consideration before the learned Subordinate Judge, Kovilpatti. He would submit that the petitioners have been set *ex parte* and the suit had been decreed in part, against which, the plaintiff has filed an appeal suit. Such pendency of the appeal suit is not be a bar for the Court below to consider the application filed by the petitioners. Hence he seeks indulgence of this Court to direct the Court below to number the interlocutory application



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and decide the same on merits.

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3. I have considered the submission of the learned counsel for the petitioner and perused the materials available on record.

4. In the suit filed in the year 2010, a partial judgment and decree in the suit had been made and against which, the plaintiffs admittedly had filed an appeal suit and the same is pending before the learned Subordinate Judge, Kovilpatti, from the year 2019. If the claim of the petitioner to set aside the *ex parte* decree is entertained, it would lead to setting aside the judgment and decree which is subjudice in appeal before the appellate forum. For the aforesaid reasons, this Court is of the view of the claim of the petitioners at the present stage, to set aside the *ex parte* decree cannot be entertained.

5. For the aforesaid reasons, this Civil Revision Petition fails and accordingly dismissed. However, the petitioners are at liberty to approach the appellate Court by filing an application to condone the delay either in filing an independent appeal or a Cross Appeal in the



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Appeal Suit. When the petitioners exercise such right, the period of pendency of the interlocutory application from the date of its filing till today, shall stand excluded by application of Section 14 of the Limitation Act, 1963. No costs.

24.10.2025

NCC : yes / no
Index : yes / no
Internet : yes / no

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To

- 1.The District Munsif, Kovilpatti.
2. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.KUMARESH BABU, J

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ORDER
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