



CRP(MD). No.2329 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P(MD). No.2329 of 2024

and

C.M.P(MD) No.13215 of 2024 and 2167 of 2025

D.Subash

... Petitioner

Vs

1. P.Ashok Sundar

2. M.Jaiganesh

S.Kamaraj (Deceased)

3. V.Rajaram

4. S.Subramaniya Raja

5. Kalavathy

6. Krithika Alias Swarnalakshmi

7. K.Saravanan

8. Selvi

9. A.Gayathiri

10. A.Balasubramanian

... Respondents



CRP(MD). No.2329 of 2024

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 19-08-2024 passed in I.A.No.1 of 2019 in O.S.No.5 of 2007 on the file of the learned District Munsif Court, Theni.

For Petitioner : Mr.Mr.Tyagi Eswaran
for M/s.Waraon and Sai Rams

For R8 : Mr.R.L.Dhilipan Pandiyan

For R9 and R10 : Mr.R.Aravind Raj

ORDER

This Civil Revision Petition has been filed challenging the fair and decreetal order dated 19.08.2024 passed in I.A.No.1 of 2019 in O.S.No.5 of 2007 on the file of the learned District Munsif Court, Theni.

2. Notice to respondents 2 to 7 was dispensed with, vide order of this Court dated 09.01.2025 made in C.R.P.(MD) No.2329 of 2024.

3. The revision petitioner filed an application to condone the delay of 2523 days in filing an appeal against the ex-parte decree passed in O.S.No.5 of 2007 dated 16.06.2012. The said application was dismissed



CRP(MD). No.2329 of 2024

by the trial Court holding that it was filed with an ill motive against the auction purchaser and that no proper or satisfactory explanation was offered for the enormous delay. Challenging the said order, the present Civil Revision Petition has been filed.

4. The learned counsel appearing for the revision petitioner, submitted that the first respondent herein is the plaintiff in the original suit, who instituted the suit for declaration and permanent injunction. It was vehemently contended that the suit schedule property was brought to public auction on 16.06.1997 and that the first respondent was the successful bidder in the said auction. According to the learned counsel, the revision petitioner purchased the property from his vendor under a registered sale deed bearing Document No.2697 of 1998 dated 17.07.1998 and has been in possession of the property pursuant to the said sale deed executed in his favour by his vendor, who is the fourth respondent herein.

5. It is the further contention of the learned counsel for the revision petitioner that the suit itself is one for declaration and permanent



CRP(MD). No.2329 of 2024

injunction and that even though the revision petitioner is in possession of the property, instead of filing a suit for eviction or recovery of possession, the first respondent has filed the present suit for declaration, which, according to him, is impermissible and contrary to the auction proceedings said to have been held in favour of the first respondent.

6. Per contra, the learned counsel appearing for the eighth respondent submitted that attention of this Court may be drawn to the suit schedule property, wherein, in O.S.No.5 of 2007, the Court has passed an order for delivery of the property purchased in court auction through execution proceedings. Placing reliance on Order XXI Rule 95 of the Code of Civil Procedure, it was contended that delivery was effected through Court and that, after execution, the auction purchaser is in possession of the property.

7. It is to be noted that the issue in the present revision is not with regard to the execution proceedings or possession of the property. The question as to whether the revision petitioner was in possession of the property and as to when he came to know about the execution



CRP(MD). No.2329 of 2024

proceedings, at the time when the Amin visited the property for effecting delivery pursuant to appropriate orders of the Court, can be ascertained.

8. For which, the learned counsel for the revision petitioner replied that in the year 2019, a police complaint was lodged by the first respondent and that only thereafter the revision petitioner came to know about the auction proceedings, nearly seven years after the ex parte decree dated 16.06.2012, and hence, the delay had occurred.

9. The revision petitioner has not substantiated the reasons assigned for the delay by producing any documentary evidence. On a careful consideration of the submissions made on either side and the materials available on record, this Court does not find any infirmity or illegality in the order passed by the trial Court warranting interference.

10. Accordingly, this Civil Revision Petition is dismissed for want of merits. Consequently, the connected Miscellaneous Petitions are closed. No costs.



CRP(MD). No.2329 of 2024

20.01.2026

Speaking : Yes / No
NCC : Yes / No
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WEB COPY



CRP(MD). No.2329 of 2024

N.SENTHILKUMAR, J.

Indu

CRP(MD). No.2329 of 2024

20.01.2026