



C.R.P.(MD) No.2626 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P.(MD) No.2626 of 2022
and
CMP(MD) No.12809 of 2022**

Gurusamy

... Petitioner

vs.

Mahalakshmi

... Respondent

PRAYER: Petition filed under Section 115 of Code of Civil Procedure, to call for the records pertaining to the fair order and decretal order dated 20-04-2022 in I.A. No. 2 of 2021 in O.S. No.426 of 2015 on the file of the Sub-Court, Theni, and to set aside the same.

For Petitioner : Mr.R.Gowrishankar

For Respondent : Mr.S.Sakthi Siddarth for
Mr.R.Suriyanarayanan

ORDER

This Civil Revision Petition challenges the order passed by the learned Subordinate Judge at Theni in I.A. No.2 of 2021 in O.S.No. 426 of 2015 dated 20.04.2022.



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2.The first defendant is the Civil Revision Petitioner.

3.The contesting respondent presented a suit for partition and separate possession in O.S.No.426 of 2015. The suit was decreed *ex parte* on 03.10.2017. To set aside the *ex parte* decree, the Civil Revision Petitioner filed an application in I.A.No.2 of 2021, to condone the delay of 1145 days in filing such application on 22.12.2020. The plaintiff stoutly opposed the application. The learned Trial Judge dismissed the application to condone the delay. Hence, this Revision.

4.I have Heard Mr.R.Gowrishankar for the Civil Revision Petitioner and Mr.S.Sakthi Siddarth representing Mr.R.Siriyannarayanan for the respondent. I have gone through the records.

5.The relationship between the parties is not in dispute. The ground on which the Civil Revision Petitioner seeks to condone the delay in filing the application under Order IX Rule 13 of the Code of Civil Procedure is two-fold. One, the plaintiff agreed to withdraw the suit before the Panchayatdhars and two, the first defendant was suffering from diabetes and hence, could not approach the Court.



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6.A perusal of the order of the Trial Court shows that the first defendant did not examine anybody to prove the alleged panchayat that is said to have taken place between the plaintiff and the first defendant. Furthermore, no evidence has been produced before the Court to show that the first defendant was diabetic. As to how the first defendant suddenly came to know about the *ex parte* decree only in 2020, that is, nearly 3 years after the decree was passed, has not been explained in the affidavit.

7.Mr.S.Sakthi Siddarth points out that the final decree itself came to be passed on 08.04.2025 in I.A.No.1 of 2025. As much water has passed and as I do not find “sufficient cause” in the reason trotted out by the first defendant. No other order, other than one of dismissal, need to be passed in this case.

8.Accordingly, this Civil Revision Petition stands dismissed. The order passed by the learned Subordinate Judge at Theni in I.A. No.2 of 2021 in O.S.No.426 of 2015 dated 20.04.2022 is confirmed.



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WEB COPY No costs. Consequently, connected Miscellaneous Petition is closed.

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

24.03.2026

mm

To

The Subordinate Judge, Theni.



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V. LAKSHMINARAYANAN, J.

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