

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:21.07.2026

Pronounced on:24.07.2026

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THE HON'BLE MR.JUSTICE P.B. BALAJI**CRP. No.882 of 2026**

Mr.M.Afser Shakir

..Petitioner(s)

Vs

Mr.K.Shanmugavel

..Respondent(s)

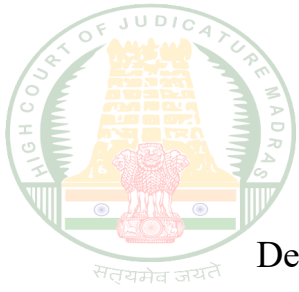
PRAYER: This Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code, 1908, to set aside the order and decretal order dated 25.07.2023 in I.A. No.01 of 2023 in Un-numbered Appeal filing (SR) No.1066 of 2023 on the file of the learned Principal District Judge at Salem.

For Petitioner(s):

Mr.R.Asokan

For Respondent(s):

No Appearance



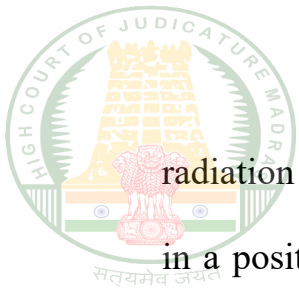
ORDER

Despite service of notice, the respondent has neither chosen to appear in person nor through Counsel. The respondent is called and set exparte.

2. I have proceeded to hear Mr.R.Asokan, learned counsel for the petitioner. The revision petitioner has filed First Appeal in AS SR. No.1066 of 2023 and as there was a delay in preferring the appeal, an application was taken out in I.A. No.1 of 2023, seeking condonation of 11 days in filing the First Appeal. The said Application came to be allowed by the First Appellate Court on condition that the petitioner pays a costs of Rs.750/- on or before, 25.07.2023. Admittedly, the costs imposed by the Court was not paid within the time, which resulted in dismissal of I.A. No.1 of 2023.

3. Mr.Asokan, learned counsel for the petitioner would contend that the petitioner's counsel is practising at Chennai and he was taking care of the appeal through a local Counsel at Salem. According to the learned counsel for the petitioner, the local Counsel did not appraise the learned counsel for the petitioner about the order passed in I.A. No.1 of 2023, imposing costs of Rs.750/- to be paid, on or before, 25.07.2023 and therefore, the conditional order could not be complied with and the CMP for condonation of delay was dismissed for default, on 25.07.2023.

4. Mr.Asokan, learned counsel for the petitioner would further state that the petitioner is also suffering from vocal cancer and is being treated with

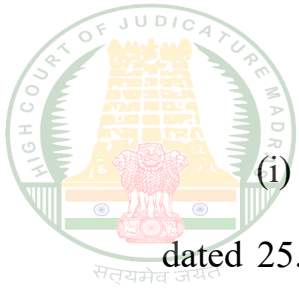


radiation and further, he is also diabetic. It is also not as if the petitioner was not in a position to pay Rs.750/- and the non-payment was only on account of the petitioner being in dark about the order passed. The learned counsel for the petitioner would therefore pray for the revision being allowed, especially considering that the valuable rights of the revision petitioner in immovable property, are subject matter of the appeal.

5. I have carefully considered the submissions advanced by the learned counsel for the petitioner and I have also gone through typed set of papers as well as the order in I.A. No.1 of 2023.

6. Admittedly, the only reason for dismissal of I.A. No.1 of 2023, is on the ground that the conditional order viz., payment of costs of Rs.750/- has not been complied with. The First Appellate Court had exercised its judicious discretion in deciding to condone the delay, which was only 11 days and in order to compensate the respondent, the delay has been condoned subject to payment of costs of Rs.750/-. It is only for non-payment of costs that the I.A. No.1 of 2023 has been dismissed. The reasons for non-payment of costs has been satisfactorily explained and for mere non-payment of costs, the petitioner should not be deprived of a fair opportunity to contest the decree passed by the Trial Court, on merits, before the First Appellate Court.

7. In the light of the above and also taking into account that the respondent has not chosen to even appear and contest the revision petition, I am inclined to dispose of the revision petition in the following manner:-



(i) Order in I.A. No. 1 of 2023 in un-numbered AS SR No1066 of 2023, dated 25.07.2023, is set aside. The petitioner shall pay a costs of Rs.1,500/- (Rupees Thousand Five Hundred only) to the learned counsel for the respondent before the Principal District Judge, Salem viz., Mr.R.Ramsundar, within a period of two (2) weeks from the date of receipt of the copy of the order.

(ii) On payment of the said costs, the delay of 11 days shall stand condoned and the appeal shall be taken up on file/numbered, if the papers are otherwise in order and thereafter, shall be disposed of on its own merits and in accordance with law, after hearing both the parties.

8. With the above directions, this Civil Revision Petition is allowed. No costs.

24-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RKP

To
The Principal District Judge, Salem.



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P.B.BALAJI, J.

RKP

Pre-delivery Order in
CRP. No.882 of 2026

24-07-2026