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CRP(MD)No.75 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18/08/2026

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

CRP(MD)No.75 of 2024
and
CMP(MD)No.383 of 2024

Raja Mohammed : Petitioner/Petitioner/
Defendant

Jayamani Vs.
: Respondent/Respondent/
Plaintiff

PRAYER: This Civil Revision has been filed under Section 115 of the Civil Procedure Code, 1908, against the fair order and decretal order, dated 05/08/2023 made in IA No.1 of 2023 in OS No.297 of 2016 on the file of the Principal Sub Court, Dindigul.

For Petitioner : Mr.K.Guhan

For Respondent : Mr.S.Harish

ORDER

This Civil Revision Petition is filed challenging the fair and decretal order, dated 05/08/2023 passed in I.A.No.1 of 2023 in O.S.No. 297 of 2016 by the learned Principal Subordinate Judge, Dindigul.



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2.The petitioner is the defendant before the trial Court. The respondent/plaintiff filed the suit seeking specific performance and the said suit came to be decreed. According to the petitioner, the suit was decreed ex-parte, as he was unable to adduce evidence due to his illness. As stated in the affidavit filed by the petitioner/defendant before the trial Court, the suit was posted for the defendant's side evidence on 23/08/2021. However, due to his illness, he was unable to appear before the Court and adduce evidence. Consequently, he was set ex-parte and his evidence was closed on 31/08/2021, on which date an ex-parte decree was also passed against him. The petitioner was required to file a petition to set aside the ex-parte decree within 30 days from the date of the decree. However, due to his illness, he was unable to file the petition within the prescribed period, resulting in a delay of 378 days in filing the petition to set aside the ex-parte decree. Hence, he filed the petition seeking condonation of the delay and permission to adduce evidence.

3.The respondent/plaintiff seriously contested the petition, contending that the suit was decreed on 31/08/2021 after a full-fledged trial and that the decree was not an ex-parte decree. It was further contended that the petitioner/defendant had fully cross-examined the plaintiff and, therefore, the petition is liable to be dismissed.



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4.The trial Court, after considering the rival submissions, dismissed the petition holding that the reasons stated by the petitioner were not convincing. The trial Court was also of the view that the petitioner had not adduced evidence, though he had cross-examined the plaintiff's witnesses and that the decree had been passed after considering the materials available on record. Aggrieved by the same, this Civil Revision has been filed by the petitioner.

5.The learned counsel for the petitioner would submit that if the petitioner is not permitted to adduce evidence, he would be put to irreparable loss and hardship. It is also submitted that the respondent/plaintiff has already filed an Execution Petition and obtained a sale deed in his favour. According to the petitioner, the original transaction between the parties was only a money transaction. The petitioner, therefore, seeks one opportunity to participate in the trial proceedings and undertakes that he will not seek unnecessary adjournments and will complete his evidence within ten days from the date of receipt of a copy of this order and prays for allowing this civil revision.



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6. Heard both sides and perused the materials available on record.

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7. A perusal of the records reveals that the petitioner/defendant has not adduced any evidence on his behalf. If the petitioner is not permitted to adduce evidence, his valuable right to defend the suit would be prejudiced.

8. It is true that the petitioner has not produced any medical certificate to substantiate his illness and that he did not appear before the trial Court and adduce evidence. However, considering the overall facts and circumstances of the case and in the interest of justice, this Court is inclined to grant one more opportunity to the petitioner to adduce evidence, subject to payment of costs to the respondent/plaintiff.

9. It is also brought to the notice of this Court that the respondent/plaintiff has already filed an Execution Petition and obtained a sale deed in his favour. Therefore, the petitioner is directed to pay a sum of **Rs.35,000/- (Rupees Thirty Five Thousand only)** to the respondent/plaintiff towards costs within a period of seven days from the date of receipt of a copy of this order.



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10.Upon compliance with the above condition, the petitioner/defendant shall be permitted to adduce his evidence before the trial Court within one week thereafter. The petitioner shall not seek any unnecessary adjournment and shall complete his evidence and arguments within a period of ten days thereafter. If the petitioner fails to adduce his evidence within the aforesaid period or attempts to adopt any dilatory tactics, the trial Court shall not permit him to adduce evidence thereafter and shall proceed to pass appropriate orders in accordance with law, on the basis of the materials already available on record.

11.In the result, this Civil Revision Petition is **allowed on the above terms**. The fair and decretal order, dated 05/08/2023 passed in I.A.No.1 of 2023 in O.S.No.297 of 2016 by the learned Principal Subordinate Judge, Dindigul, is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

12.Post on 27.08.2026 for reporting compliance.

18.08.2026

Index : Yes / No

Internet : Yes / No

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Note:Issue order copy on 18/08/2026



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R.POORNIMA, J.

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To,

The Principal Sub Court,
Dindigul.

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