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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2026

CORAM

THE HONOURABLE MR JUSTICE S. SOUNTHAR

**C.R.P(MD).No.623 of 2022
and C.M.P(MD).No.2563 of 2022**

Indira Sarojini Bai

... Petitioner

Vs

Sheik Salahudeen

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition by setting aside the fair and decreetal order passed in I.A.No.3 of 2019 in O.S.No.57 of 2016 on the file of the IV Additional District Court, Tirunelveli, dated 22.11.2021.

For Petitioner : Mr.H.Arumugam for
Mr.V.S.Kishok Kumar
For Respondent : Mr.G.Prabhu Rajadurai

ORDER

This civil revision petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner/first defendant seeking to condone the delay of 140 days in filing a petition to set aside the *ex-parte* decree.

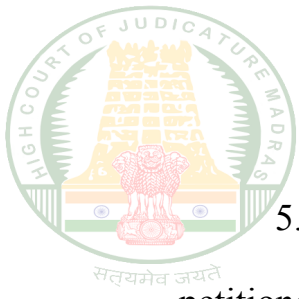
2.The respondent herein filed a suit seeking recovery of Rs.21,70,500/- against the petitioner and another, which came to be decreed *ex-parte* on



22.11.2018. The petitioner herein filed an application to set aside the *ex-parte* decree with the delay of 140 days. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that at the relevant point of time she was affected with paralysis and hence, she could not give suitable instructions to her counsel. Later, she received notice in execution petition on 04.04.2019, immediately, she had filed an application to set aside the *ex-parte* decree. Since there was delay of 140 days, the instant application has been filed to condone the delay in filing the petition to set aside the *ex-parte* decree. The Trial Court dismissed the condone delay petition. Aggrieved over the same, the petitioner has come before this Court.

3.The learned counsel appearing for the petitioner by taking this Court to the illness pleaded in the affidavit filed in support of the condone delay petition would submit that the petitioner was prevented from giving suitable instructions to the counsel due to paralytic stroke suffered by her and there was no wilful default in prosecuting the litigation.

4.The learned counsel appearing for the respondent would submit that the petitioner was set *ex-parte* as early as 2016 and the *ex-parte* decree was passed only on 22.11.2018 and hence, the petitioner has to explain the delay for more than two years.



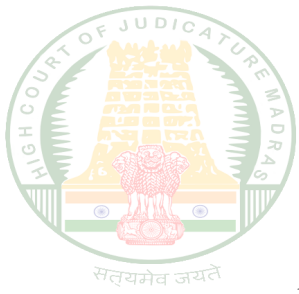
5.A perusal of the typed set of papers would indicate that though the petitioner was set *ex-parte* in the year 2016, *ex-parte* decree was passed against the petitioner only on 22.11.2018 and the present application was filed by the petitioner on 11.04.2019, after receipt of notice in execution petition.

6.Having regard to the length of delay and also the petitioner was suffering from paralysis stroke at the relevant point of time, this Court is inclined to take a liberal view in the matter and afford an opportunity to the petitioner to contest the suit on merits.

7.Since the decree passed against the petitioner is in the nature of money decree, this Civil Revision Petition is allowed on the following condition:-

(i)The petitioner shall deposit a sum of Rs.2,00,000/- to the credit of O.S.No.57 of 2016 on the file of the IV Additional District Court, Tirunelveli;

(ii)The said amount shall be deposited by the petitioner within a period of eight weeks from today (i.e., 01.07.2026), failing which, the civil revision petition shall stand automatically dismissed, without further reference to this Court.



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(iii) On compliance, the impugned order shall stand set aside and the Trial Court is directed to take up the petition filed by the petitioner seeking to set aside the ex-parte decree and dispose of the same, in accordance with law, as expeditiously as possible.

No costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2026

*NCC : Yes/No
Index : Yes/No
Rmk*

To
1. IV Additional District Judge, Tirunelveli.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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S. SOUNTHAR.J.

Rmk

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