



C.R.P.Nos.2812 and 2813 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 26.09.2022**

**CORAM:**

**THE HONOURABLE Mr. JUSTICE S.SOUNTHAR**

C.R.P.Nos.2812 and 2813 of 2022

V.M.Karthikeyam

.. Petitioner in both C.R.P's

Vs.

M/s.T.T.Limited,

Represented by its Chief Manager, (HR & ADMN),

Mr.H.M.Shahul Hammeed,

No.54, 50 Feet Road, Lakshmi Nagar Main Road,

Tirupur - 641 602

.. Respondent in both C.R.P's

PRAYER in C.R.P.No.2812 of 2022: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the return order dated 17.08.2022 in C.F.R.No.19412 of 2022 in O.S.No.326 of 2006 on the file of the I Additional District Judge, Coimbatore.

PRAYER in C.R.P.No.2812 of 2022: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the return order dated 17.08.2022 in C.F.R.No.19413 of 2022 in O.S.No.326 of 2006 on the file of the I Additional District Judge, Coimbatore.



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For Petitioner : Mr.K.Sudhakar  
(both C.R.P's)

For Respondent : No appearance  
(both C.R.P's)

**COMMON ORDER**

The Civil Revision Petitions are filed challenging the return orders dated 17.08.2022 made in unnumbered I.A. C.F.R.Nos.19412 and 19413 of 2022 in O.S.No.326 of 2006.

2. The revision petitioner filed an application under Order IX, Rule 13 and Section 151 of Civil Procedure code in C.F.R.No.19412 of 2022 to set aside the ex parte decree dated 16.2.2007 and also filed an application under Section 5 of the Limitation Act in C.F.R.No.19413 of 2022 to condone the delay of 4800 days in filing the petition to set aside the exparte decree. The said applications were returned by the Court below on the ground that the records were already destroyed by the Central Record Room.



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3. The learned counsel for the petitioner submits that the petitioner had filed application for obtaining certified copies of the plaint, judgment and decree in O.S.No. 326 of 2006 and the same were furnished to him. The Court seal found in the certified copies of the plaint, judgment and decree would suggest that the certified copies were furnished to the revision petitioner on 04.07.2022. From the return made by the Court below, it is not clear when the records were destroyed . But, a perusal of the copy of the plaint, judgment and decree furnished to the revision petitioner would suggest that the records were available till 04.07.2022.

4. The learned counsel for the petitioner submitted that the certified copies of the plaint, judgment and decree were furnished before this Court in C.R.P.Nos.2695 and 2699 of 2022. From the averments found in the affidavit dated 28.07.2022 the petitioners admitted that he was contesting the suit and subsequently due to his non appearance on 16.02.2007, he was set exparte. Hence, there is no dispute regarding service of summons. Therefore, summon papers are not required for disposal of these unnumbered applications.



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5. In view of the above, this Court is inclined to direct the Court below to number the application filed by the petitioner in C.F.R.No.19412 of 2022 to set aside the exparte decree and the application in C.F.R.No.19413 of 2022 to condone the delay in filing the petition to set aside the exparte decree and dispose of the same in accordance with law.

6. Accordingly, the Civil Revision Petitions stand allowed by directing the Court below to dispose of the applications on merits and in accordance with law. No costs.

**26.09.2022**

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**Note:** Registry is directed to return the original affidavit and petitions filed in un numbered C.F.R.Nos.19412 and 19413 of 2022, after retaining the certified scanned copy of the same in the E.B.

Index: Yes/ No

Internet: Yes/No

Speaking Order / Non-Speaking Order

To

The I Additional District Judge, Coimbatore.



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**S.SOUNTHAR, J.**

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**26.09.2022**