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C.R.P.(NPD)No.2445 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.2445 of 2016  
and CMP.No.12649 of 2016

1.R.Selvaraj  
2.S.Senthil

.. Petitioners

VS

1.N.Vasudevan

2.C.Rangasamy Gounder (Died)

3.R.Chinnasamy  
4.R.Kandhasamy  
5.S.Saraswathi  
6.Ramayee  
7.L.Lakshmi

.. Respondents

(R3 to R7 brought on record as LR's of the deceased  
2nd Respondent viz. C.Rangasamy vide court order  
dated 19.04.2022 made in CMP.Nos.4656, 4659 and  
4660 of 2022 in CRP(NPD)No.2445 of 2018)

Petition filed under Section 115 of Civil Procedure Code against  
the Fair and Decretal order passed I.A.No.328 of 2014 in O.S.No.16 of  
2009 on the file of II Additional Sub Court, Erode is liable to be set  
aside.



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C.R.P.(NPD)No.2445 of 2016

For Petitioners : Mr.V.Regunathan

For Respondents : Mr.Kaithamalai Kumaran (for R1)

R2 - Died (steps taken)

No Appearance (for R3 to R7)

### **ORDER**

An application was filed to condone the delay of 250 days in filing an application to set aside the exparte decree. The said application was allowed by the learned II Additional Subordinate Judge, Erode in I.A.No.328 of 2014 in O.S.No.16 of 2009 on 01.10.2015. While exercising his discretion, the learned Judge has directed the party to deposit a sum of Rs.1,00,000/- as a condition precedent to set aside the exparte decree. I feel that this condition is slightly onerous.

2.It is seen that the petitioner had remained exparte constraining the decree holder to file E.P.No.110 of 2010 and thereafter yet again in E.P.No.120 of 2014. Therefore, while setting aside the condition of deposit of Rs.1,00,000/-, I modify the same into payment of Rs.20,000/- to the judgment creditor/plaintiff within a period of eight (8) weeks from the date of receipt of a copy of this order. With the above modification, this Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.



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3.On the payment of Rs.20,000/-, the learned Subordinate Judge is requested to take up the application under Order 9 Rule 13 of CPC and allow the same. Thereafter, he shall take up the suit and dispose of within a period of nine (9) months from the date of allowing the application under Order 9 Rule 13 of CPC.

**17.07.2023**

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The II Additional Sub Court,  
Erode.



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**V. LAKSHMINARAYANAN,J.**

VS

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and CMP.No.12649 of 2016**

**17.07.2023**