



C.R.P. No.2335 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.2335 of 2023
and C.M.P.No.14200 of 2023

Arumugam

... Petitioner

Vs

1.Sivakumar
2.Shanmugam

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., as against the order and decreetal order in I.A.No.25 of 2021 in A.S.No.116 of 2017 on the file of the Sub Court, Ulundurpet, dated 03.06.2023.

For Petitioner	: Ms.R.Poornima
For Respondent	: Mr.M.Muruganantham

ORDER

This civil revision petition has been filed to set aside the order and decreetal order in I.A.No.25 of 2021 in A.S.No.116 of 2017 on the file of the Sub Court, Ulundurpet, dated 03.06.2023.



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2. The petitioner is the second respondent in the suit in O.S.No.286

of 2010 filed by the respondents for declaration and permanent injunction.

The said suit was dismissed by the learned II Additional District Munsif, Ulundurpet, on 18.03.2014. Against which, the respondents filed A.S.No.49 of 2016 and the same as re-numbered as A.S.No.116 of 2017 in which notice was served to the petitioner and he was remained ex-parte. Subsequently, the petitioner filed an application in I.A.No.25 of 2021 to set aside the ex-parte decree with condone the delay of 853 days stating that he was employed in Military and the same was dismissed. Aggrieved over the same, this civil revision petition has been filed.

3.The learned counsel for the petitioner submitted that the petitioner is having valid defence in the appeal as he was engaged in the Military and he was not able to follow the procedures.

4.The learned counsel for the respondents submitted that the petitioner came back from the Military long back and settled at Chennai and followed the procedures and without any proper reason assigned, he



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purposely filed this petition. Hence, the same is liable to be dismissed as no merits.

5. Heard the learned counsel on either side and perused the materials available on record.

6. On perusal of the records, it is seen that the petitioner filed an application to set aside the ex-parte decree with condone the delay of 853 days and the same was dismissed by the trial Court holding that proper reason was not assigned.

7. The contention of the petitioner is that he was employed in Military and he was not followed the procedures.

8. To give one more opportunity to the petitioner to contest the suit, the order passed by the learned Sub Judge, Ulundurpet, in I.A.No.25 of 2021 in A.S.No.116 of 2017 dated 03.06.2023, is set aside. The Civil Revision Petition is allowed with condition to deposit a sum of Rs.10,000/-



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in A.S.No.116 of 2017 pending before the learned Sub Judge, Ulundurpet,
within a period of two weeks from the date of receipt of a copy of this order.

On such deposit, the learned Sub Judge, Ulundurpet is directed to take the
appeal on file and dispose the same within a period of two months
thereafter. Consequently, connected Miscellaneous Petition is also closed.

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Index : Yes/No
Speaking Order : Yes/No
vkr

To

1. The Sub Judge, Ulundurpet.



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T.V.THAMILSELVI, J.

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