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CRP.No.1723 of 2021

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

**DATED : 09.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CRP.No.1723 of 2021**  
**and**  
**C.M.P.No.13426 of 2021**

Padmavathi

... Petitioner

Vs.

C.Udhayakumar

...Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 07.04.2021 made in I.A.No.2368 of 2018 in O.S.No.23 of 2017 on the file of the learned III Additional District and Sessions Judge, Erode at Gobichettipalayam, by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Anandhamoorthy

For Respondent : Mr.I.C.Vasudevan



CRP.No.1723 of 2021

WEB COPY

## **ORDER**

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to set aside the exparte order passed against him on 05.10.2018.

2. The respondent herein filed a money suit against the petitioner. When the suit was posted for hearing on 05.10.2018 the petitioner/defendant was set exparte owing to his non appearance. Immediately, the petitioner filed the present application to set aside the exparte order on 12.10.2018. However, the said petition was dismissed by the Court below on the ground that the application has been filed belatedly. It is seen from the impugned order that the petitioner was set exparte on 05.10.2018 and within 7 days the petitioner/defendant filed IA.No.2368 of 2018 to set aside the exparte order passed in the suit. It is



also brought to my notice that the petitioner also filed in IA.No.2367 of 2018 to set aside the exparte order passed in IA.No.1557 of 2017 filed to attach the property before judgment.

3. The learned counsel for the petitioner submitted that the petitioner has not filed any revision challenging the dismissal of the IA.No.2367 of 2018 in respect of exparte order passed in that petition seeking attachment before the judgment. Therefore, the petitioner confined his argument only in respect of IA.No.2368 of 2018 which is filed to set aside the exparte order against him in the main suit.

4. In view of the fact that the present petition to set aside the exparte order has been filed within 7 days, this Court is inclined to take liberal approach. It is stated by the learned counsel for the petitioner in the affidavit filed on 05.10.2018 that she was not able to appear before the Court due to illness of her husband.



CRP.No.1723 of 2021

WEB COPY

5. Having satisfied with the reasons assigned in the affidavit, this Court is inclined to set aside the order passed in IA.No.2368 of 2018 and the Civil Revision Petition stands allowed. Having regard to the fact the suit for recovery of money is of the year 2017, this Court is inclined to direct the Court below to dispose of the suit as expeditiously as possible.

6. With the above observations, this Civil Revision Petition is allowed. No costs.

**09.01.2024**

Index : Yes / No  
Internet : Yes / No  
dna



CRP.No.1723 of 2021

WEB COPY

To

The III Additional District and Sessions Judge,  
Erode at Gobichettipalayam.



WEB COPY



CRP.No.1723 of 2021

**S.SOUNTHAR , J.**

dna

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**09.01.2024**