



C.R.P.(MD)Nos.2500 to 2503 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P(MD)Nos.2500 to 2503 of 2023

and

CMP(MD)Nos.13021, 13029, 13030 and 13032 of 2023

(1)CRP(MD)No.2500 of 2023:-

G.Mariappan : Petitioner/Respondent/
Respondent/Plaintiff

Vs.

M.Dharmalingam : Respondent/Petitioner/
Petitioner/Defendant

PRAYER:- Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure to set aside the fair and decreetal order, dated 11/07/2023 passed in IA No.1 of 2022 in IA No.1 of 2021 in OS No.299 of 2018 on the file of the Principal Sub Judge, Srivilliputhur and pass such further or other orders.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Jothi Basu

(2)CRP(MD)No.2501 of 2023:-

G.Mariappan : Petitioner/Respondent/
Respondent/Plaintiff

Vs.

M.Dharmalingam : Respondent/Petitioner/
Petitioner/Defendant



C.R.P.(MD)Nos.2500 to 2503 of 2023

PRAYER:- Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure to set aside the fair and decreetal order, dated 11/07/2023 passed in IA No.2 of 2022 in IA No.1 of 2021 in OS No.299 of 2018 on the file of the Principal Sub Judge, Srivilliputhur and pass such further or other orders.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Jothi Basu

(3)CRP(MD)No.2502 of 2023:-

G.Mariappan : Petitioner/Respondent/
Respondent/Plaintiff

Vs.

M.Dharmalingam : Respondent/Petitioner/
Petitioner/Defendant

PRAYER:- Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure to set aside the fair and decreetal order, dated 11/07/2023 passed in IA No.3 of 2022 in IA No.2 of 2021 in OS No.299 of 2018 on the file of the Principal Sub Judge, Srivilliputhur and pass such further or other orders.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Jothi Basu

(4)CRP(MD)No.2503 of 2023:-

G.Mariappan : Petitioner/Respondent/
Respondent/Plaintiff

Vs.



C.R.P.(MD)Nos.2500 to 2503 of 2023

M.Dharmalingam

: Respondent/Petitioner/
Petitioner/Defendant

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PRAYER:- Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure to set aside the fair and decreetal order, dated 11/07/2023 passed in IA No.4 of 2022 in IA No.2 of 2021 in OS No.299 of 2018 on the file of the Principal Sub Judge, Srivilliputhur and pass such further or other orders.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Jothi Basu

O R D E R

These petitions are filed by the petitioner seeking to set aside the impugned orders passed by the trial court.

2.The facts in brief:-

The suit in OS No.299 of 2008 was filed by the petitioner namely Mariappan seeking the relief of recover of money of Rs.4,00,000/- with interest @ 12% p.a and for costs. The defendant appeared and filed written statement. During the trial process, even though the defendant appeared through his Advocate, did not file his written statement. Finally, he was set *ex-parte* and *ex-parte* decree was passed, on 19/02/2020. Later, he filed two applications. one in IA No.1 of 2021 to condone the delay of 343 days in filing the side the *ex-parte* decree



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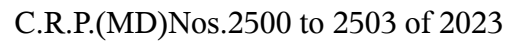
and another application namely IA No.2 of 2021 to set aside the *ex-parte* decree. Again, there was a delay on the part of the respondent. Both the applications were dismissed, on 16/03/2022 for non-prosecution.

3.Later the respondent filed four applications again to condone the delay in filing the application to restore IA No.1 of 2021, etc. The petitioner filed a detailed counter in all the matters. Without considering the specific objection, it mechanically allowed the petitions filed by the respondent on payment of costs. The conduct of the respondent ought to have been taken notice by the trial court. Till, now the written statement is not filed.

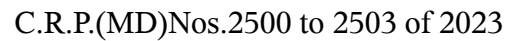
4.Now against the orders passed, these civil revisions are preferred on the above said grounds.

5.Heard both sides.

6.With regard to non-filing of the written statement to set aside the *ex-parte* decree, it is submitted by the respondent that along with the applications, statement was also filed. Copy is also produced before this court. The petitioner may verify, whether it is available or not before the trial court.



10. But the learned counsel appearing for the respondent would submit that in fact, the reason for the delay was accepted by the trial court, since proper reason was assigned.



13. More-over, it is seen that it is not the default of the parties, which caused the dismissal of the applications. But it was the mistake and default committed by the Advocate, who was appearing for the



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respondent. So, for the mistake committed by the Advocate, the party should not be made to suffer. On that account also, the trial court has allowed the applications on payment of costs.

14.Hence, I find absolutely no error in exercising the discretionary power by the trial court.

15.In the result, all the civil revision petitions are **dismissed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

04/03/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Principal Sub Court,
Srivilliputhur.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

er

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03/04/2024