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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP NO. 602 of 2025

A. Murugesan
S/o. Aadhipuram, Nagakkonnanur, Vedachandur
Post, Dindigul Dt.

Petitioner(s)

Vs

B. Saravankumar
S/o. R. Balusamy, No.105, Jail Hill, Ootacamund,
The Nilgiris 643 001.

Respondent(s)

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the fair and decretal order passed in I.A.No.1 of 2024 in O.S.No.43 of 2020 vide order dated 20.11.2024 on the file of the Sub Judge, Uthagamandalam.

For Petitioner(s): Mr.K. Hemanathan

For Respondent(s): M/s.V.Saranraj

ORDER

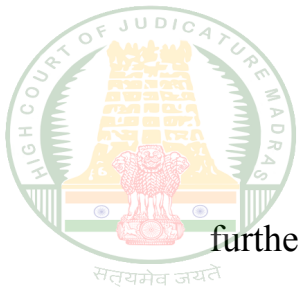
This Civil Revision Petition filed, seeking to set aside the fair and decretal order, dated 20.11.2024 passed in I.A.No.1 of 2024 in O.S.No.43 of 2020 on the file of the Sub Judge, Uthagamandalam.



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The petitioner is the defendant in O.S.No.43 of 2020 filed by the respondent/plaintiff for recovery of an amount of Rs.4 lakhs due on promissory note. The petitioner defendant engaged a counsel and since he did not appear before the Court, an ex-parte judgment and decree came to be passed on 29.03.2021. The petitioner had filed an application under Order 9 Rule 13 r/w Section 151 of CPC, to set aside the ex-parte decree along with a petition in I.A.No.1 of 2024, to condone the delay of 728 days in filing the petition. During trial proceedings, as the petitioner had not shown any sufficient cause to condone the delay, the petition came to be dismissed. Against which, the present revision has been filed.

3.The learned counsel for the petitioner would submit that since the suit summons served on 16.03.2021 on the petitioner during the Covid-19 Pandemic, the petitioner was unable to appear and contest the case and thereby, an ex-parte decree came to be passed on 29.03.2021. He would further submit that the petitioner was affected with Jaundice and thereby, there was a delay in filing the petition to set aside the ex parte decree. He



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further submits that the petitioner has got a good case on merits and if the petitioner is not given an opportunity to contest the suit, he will be put to great hardship. Hence, the learned counsel urged that the petition may be allowed on fixation of reasonable terms and costs.

4. Per contra, the learned counsel for the respondent/plaintiff would submit that the trial Court after taking into consideration the fact that the application to set aside the ex parte decree was filed only after receipt of notice in Execution Petition and there has been a delay of 6 months, the trial Court finding that the petitioner has not shown sufficient cause for the delay and also some lapses on the part of the petitioner/defendant, has rightly dismissed the application, which requires no interference.

5. Heard. Admittedly since the entire trial proceedings had been taken place during Covid-19 Pandemic, this Court is of the opinion that sufficient opportunity could be extended to the petitioner to contest the suit subject to certain terms which would meet ends of justice.

5. In view of the above, this revision petition is allowed. The fair and



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decretal order dated 20.11.2024 passed in I.A.No.1 of 2024 in O.S.No.43 of 2020 on the file of the Sub Judge, Uthagamandalam is set aside on condition that the petitioner /defendant shall deposit a sum of Rs.1 lakh to the credit of O.S.No43 of 2020 on or before 06.06.2025. On such deposit being made, *ex parte* decree dated 29.03.2021 stands set aside and the petitioner shall appear before the Court on 12.06.2025 and the trial Court shall take every endeavour to complete the trial at the earliest, preferably, within a period of six months thereafter. No costs.

16-04-2025

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Index:Yes/No

Neutral Citation:Yes/No

To

1. The Sub Judge, Uthagamandalam



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A.D.JAGADISH CHANDIRA, J.

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