



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.06.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

C.R.P.No.1104 of 2025

& CMP.No.6349 of 2025

M/s.Arcee Industries Limited,
7th KM Brala Road,
Talwandi Rana,
Hissar – 125 001.

... Petitioner

Vs.

Tamilnadu Water Supply and Drainage Board,
31, Kamarajar Salai, Chepauk,
Chennai -5
Rep. by its Managing Director.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 03.01.2025 made in I.A.No.1 of 2021 in O.S.No.1003 of 2021 on the file of the XVIII Additional City Civil Court, Chennai.

For Petitioner : Mr.V.M.G.Ramakannan

For Respondent : Mrs.V.Kavitha
Standing Counsel



ORDER

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This Civil Revision Petition has been preferred by the petitioner/defendant, challenging the order of the Trial Court in I.A.No.1 of 2022 allowing the application to set aside the dismissal for default of O.S.No.1003 of 2021.

2.Mr.V.M.G.Ramakannan, learned counsel for the petitioner/defendant would submit that the suit has been filed by the respondent/plaintiff for recovery of monies from the revision petitioner. The said suit came to be dismissed for non-prosecution and in order to restore the suit to file, an application was filed under Order IX Rule 9 of CPC.

3.The specific contention of the learned counsel for the petitioner is that the said application, which ought to have been filed within 30 days, was not filed within the said period, but beyond the said period with a delay of two days. However, the said application was not accompanied by an application under Section 5 of the Limitation Act, which is mandated under law. He would however fairly submit that the petitioner will have no objection if, even today, the respondent/plaintiff files an application under



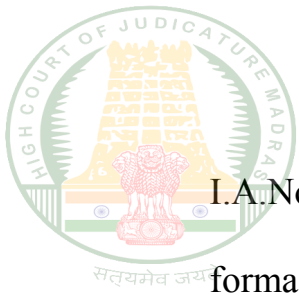
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Section 5 for condonation of delay to cure the defect, which alone would sub-serve the letter and spirit of the Limitation Act as well as Order IX Rule 9 of CPC.

4.The learned counsel for the respondent/plaintiff would submit that the petitioner/defendant has elaborately argued before the Trial court and justified the application filed, along with citations, the non filing of a Section 5 application.

5.I do not deem it necessary to go into any roving enquiry in view of the fair submissions of the learned counsel for the revision petitioner that the petitioner/defendant would not have any objection if the defect is cured even now.

6.In the light of the above, the respondent/plaintiff shall take out a formal application for condonation of delay in filing I.A.No.1 of 2022, which shall be formally decided by the Trial Court, before commencing trial. The said application shall be filed on or before 23.06.2025. If the respondent/plaintiff takes out such application to condone the delay in filing



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I.A.No.1 of 2022 on or before 23.06.2025, the said application shall be formally taken up on board and allowed. Considering the fact that the suit is for recovery of money and pending from 2010, the Trial Court, subject to the petitioner curing the defect of non-filing of Section 5 application under Indian Limitation Act, shall dispose of the suit expeditiously within a period of four months from the date of receipt of a copy of this order.

7. With the above observation and directions, this Civil Revision Petition is disposed of. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

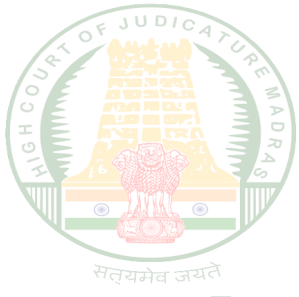
10.06.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

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To

The XVIII Additional City Civil Court, Chennai.



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P.B. BALAJI,J.

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