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C.R.P.NO.1262 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10/12/2025

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.NO.1262 OF 2022

M.Nehru Vivekananthan,
No.165, Kalliyangkaadu,
Back side to Fire Service,
Erode District.

... Petitioner/Petitioner/
Plaintiff

Vs.

1.K.Selvaraj,
No.224, Sathi Road,
Veerabathira Road,
Erode – 600 003.

2.Shree.Ramachandran,
Paavai Illam,
Varadharaj Road, Gandhi Nagar,
N.G.G.O. Colony, Back side to Power House,
Erode – 600 009.

3.Sitheswaran
No.55, Poosari Road,
Maanickampalayam,
Veerappan Chathiram,
Erode – 600 004.

4.Kumar,
No.224, Sathi Road,
Veerabathira Road,
Erode – 600 003.

5.Ravi,
No.82, Karikalan Road,



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Asokapuram, Veerapanchathiram,
Erode – 600 004.

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6.Kishorekumar,
No.15, Velusamy Road,
Municipal Colony,
Erode – 600 004.

7.Sarputheen,
No.132, Maarappan Road,
K.K.Nagar, Sennimalai Road,
Erode – 600 002.

8.Canara Bank,
The Branch Manager,
Park Road,
Erode.

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, 1908, praying to set aside the Fair and Decretal Order dated December 13, 2021 made in I.A.No.211 of 2018 in O.S.No.248 of 2011 on the file of the II Additional District Munsif, Erode by allowing the Civil Revision Petition.

For Petitioner : Mr.C.Prabakaran

For Respondents-
1 to 3 & 5 to 7 : Mr.N.Manokaran

For Respondent-4 : No such addressee

ORDER

The Revision Petitioner herein is the Plaintiff and the Respondents



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herein are the Defendants in the Original Suit in O.S.No.248 of 2011 on the file of 'the II Additional District Munsif, Erode' (hereinafter referred to as the 'Trial Court').

2.When the Suit was posted for cross examination of P.W.-1 on July 08, 2014, the Revision Petitioner/Plaintiff did not appear before the Trial Court. Hence, the Suit was dismissed for default on July 8, 2014. The Revision Petitioner filed an application under Section 5 of the Limitation Act, 1963, seeking to condone the delay of 1396 days in filing the petition under Order IX Rule 9 of CPC to restore the Suit, in I.A.No.211 of 2018.

3.The Trial Court after hearing both sides, concluded that the Plaintiff did not adduce any satisfactory reason to condone the delay of 1396 days. Accordingly, the Trial Court dismissed I.A.No.211 of 2018.

4.Feeing aggrieved by the Dismissal Order, the Petitioner/Plaintiff therein has preferred this Civil Revision Petition.

5.Reiterating the averments made in the affidavit filed in support of the petition, learned Counsel appearing for the Revision Petitioner submits that on July 07, 2014, a close friend of the Revision Petitioner



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passed away and hence, he went to Trichy on July 07, 2014 and returned back to Erode only on July 10, 2014 and hence was unable to appear before the Trial Court on July 08, 2014. In these circumstances, the Trial Court dismissed the Suit for default on July 08, 2014. He further submits that the Revision Petitioner was working as an Officer in a Canara Bank, Erode and retired on November 30, 2017. The Respondents 1 to 7 frequently visited the Revision Petitioner in his work-place caused life threat to him by stating not to proceed with the case and hence, the Revision Petitioner avoided attending the Trial Court proceedings. He further submits that in the interest of justice and to decide the matter on merits, one more opportunity may be given to the Revision Petitioner to proceed with his case. Accordingly, he prays to allow this Civil Revision Petition and set aside the Trial Court Order.

6.Per contra, Mr.N.Manokaran, learned Counsel appearing for the Respondents 1 to 3 and 5 to 7 submits that the Revision Petitioner did not file any document to substantiate the averments made in the affidavit. If really the Defendants went to his work-place and caused life threat to the Revision Petitioner, the Revision Petitioner would have filed a complaint before Police Station, which was not done by the Revision Petitioner and no evidence was let in by the Revision Petitioner in support of the said



allegation. Hence, the averments made in his affidavit are false. He further submits that the Revision Petitioner did not enter into the witness box and could not subjected to cross examination of the averments made in the affidavit. The Trial Court after considering the entire facts and circumstances of the case, rightly dismissed the petition and there is no warrant to interfere with it. Accordingly, he prays to dismiss this Civil Revision Petition.

7.This Court has considered both sides' submissions and perused the materials placed on record.

8.The Revision Petitioner filed a Suit for delivery of possession and declaration that the Sale Deed Dated May 19, 2008 is invalid, unenforceable and not binding on the Plaintiff and also seeking an Appointment of the Official Receiver to recover the possession. The Suit was filed in the year 2011. The Defendants entered appearance and filed their Written Statements. When the Suit was posted for cross examination of the Plaintiff (P.W.-1) on July 08, 2014, the Plaintiff did not appear before the Trial Court. Hence, the Suit was dismissed for default. The Plaintiff filed an application under Order IX Rule 9 to store the Suit with a delay of 1396 days. In the affidavit, it has been stated that the Defendants



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came to the work-place of the Plaintiff and caused life threat to the Plaintiff not to proceed with the case. Therefore, after his retirement, the Plaintiff filed a petition to restore the Suit with a condone delay application.

9.As rightly stated by the learned Counsel appearing for the Respondents 1 to 3 and 5 to 7, no document or evidence was adduced to substantiate the averments made in his affidavit. Had the Defendants really went to his work-place and caused life threat as alleged, either the Plaintiff or the Bank Officials would have given a police complaint against the Defendants. Admittedly, no police complaint was given against the Defendants.

10.It is settled law that the length of delay is immaterial, but the reason assigned alone is material to condone the delay. In this case, the reason assigned by the Plaintiff is not satisfactory. Hence, the Trial Court rightly dismissed the Interlocutory Application in I.A.No.211 of 2018 and there is no warrant to interfere with it. Therefore, the Civil Revision Petition lacks merit and deserves to be dismissed. Accordingly, this Civil Revision Petition is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.



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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
pam/tk

To

- 1.The II Additional District Munsif,
Erode.
- 2.The Branch Manager,
Canara Bank,
Park Road,
Erode.



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R. SAKTHIVEL, J.

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