



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP NO. 1540 of 2025 &

C.M.P.No.8981 of 2025

Mrs.Geetha

W/o Panneerselvam,

Site No.32, Nalvar Nagar,

11th Street (Extn),

Bharathiyar University (Post),

Coimbatore-641 024.

.. Petitioner

versus

The Covai Builders and Developers

rep. By its Proprietor K.Ravi

S/o Kuppusamy,

No.1, Thirumurugan Nagar,

Maruthamalai Main Road,

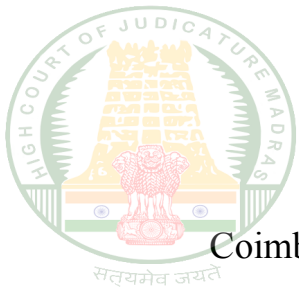
Vadavalli, Coimbatore-641 041.

Prayer: Revision Petition is filed under Section 115 of CPC, seeking to set aside the Docket order dated 10.01.2025 passed in E.A.Sr.No.219/2025 in E.A.No.2/2022 in E.P.No.738/2019 in O.S.No.427/2017 on the file of II Additional Subordinate Judge, Coimbatore.

For petitioner : Mr.R.Yaswantha

ORDER

This Revision Petition has been filed by the petitioner, seeking to set aside aside the Docket order dated 10.01.2025 passed in E.A.Sr.No.219/2025 in E.A.No.2/2022 in E.P.No.738/2019 in O.S.No.427/2017 on the file of II Additional Subordinate Judge,



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2. The case of the petitioner is that the respondent/plaintiff has filed a suit in O.S.No.427 of 2017 before the II Additional Subordinate Court, Coimbatore for recovery of outstanding balance of Rs.6,60,542/-, wherein, an *ex parte* decree was passed on 28.09.2018. Pursuant to the said decree, the respondent/plaintiff has filed E.P.No.738 of 2019 in O.S.No.427 of 2017 for execution of the decree, wherein also, the petitioner/judgment debtor was set *ex parte* and hence, the petitioner moved E.A.No.2 of 2022 in E.P.No.738 of 2019 seeking to condone the delay of 340 days in filing the petition to set aside the *ex parte* order dated 30.09.2021, which came to be ordered subject to payment of Rs.1500/- on or before 29.04.2024, failing which the same would be dismissed. This order has not been complied by the petitioner as according to him, his counsel had died and he was not aware of the present order directing him to pay costs of Rs.1500/- on or before 29.04.2024. Since the costs were not paid, E.A.No.2 of 2022 came to be dismissed on 29.04.2024.

3. Subsequently, the petitioner has filed E.A.Sr.No.219 of 2025



seeking to extend the time for payment of costs of Rs.1500/- and to set aside the order dated 29.04.2024. The grievance of the petitioner is that the trial Court without numbering the petition and hearing the petitioner, has passed a Docket order dated 10.01.2025, which reads as under:

"நீதியின் நலன் கருதி இந்த மனு ஏற்கத்தக்கதல்ல என்பதால் நிராகரிக்கப்படுகிறது"

4. The learned counsel for the petitioner would submit that the Executing Court ought to have numbered the petition and passed the orders on merits, but miserably, without even numbering the petition, has simply dismissed the petition and therefore, he would urge this Court to set aside the order and provide an opportunity to the petitioner to put forth his case.

5. Heard the learned counsel for the petitioner and perused the entire materials placed on record.

6. The only grievance expressed by the learned counsel for the petitioner that the Executing Court ought to have numbered the petition and passed the orders on merits. Considering the submission made by the learned counsel for the petitioner, this Court feels it appropriate to extend an



opportunity to the petitioner to present his case. Accordingly, the Docket Order, dated 10.01.2025 passed in E.A.Sr.No. 219 of 2025 is set aside and the Executing Court is directed to number the E.A.Sr.No.219 of 2025 and pass orders on merits after issuing notice to otherside.

7. With the above observation, the Revision Petition is allowed. No costs. Consequently, connected CMP is closed.

17.04.2025

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Neutral citation: Yes/No

To

II Additional Subordinate Judge, Coimbatore.



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A.D.JAGADISH CHANDIRA, J.

Dn

C.R.P.No.1540 of 2025

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