



C.R.P.No.2036 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2036 of 2025

M.Ponnusamy

... Petitioner

Vs.

C.Dhanabakkiyam

... Respondent

Prayer : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order, dated 05.02.2025, made in I.A.No.1 of 2022 in O.S.No.195 of 2015 on the file of the I Additional District and Sessions Court, Tiruppur.

For Petitioner : Mr.V.Anandhamoorthy

For Respondent : No appearance

ORDER

Challenging the order of the trial Court, dismissing the application filed to condone the delay in re-presenting the application for restoration of suit which was dismissed for default, the present revision has been filed.



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2.The suit in O.S.No.195 of 2015 has been originally filed by the petitioner for recovery of money on the basis of a promissory note dated 30.09.2013. The said suit came to be dismissed for default on 25.02.2019. Immediately, an application has been filed within the period of limitation to restore the suit, on 25.03.2019. However, the said application has not been numbered immediately. The trial Court has returned the application on 17.07.2019. Thereafter, the same was re-presented by the petitioner with a delay of 941 days, on 14.03.2022. It is the contention of the petitioner that, since he was suffering from Covid-19 in both waves and was taking bed rest, the delay had occurred. Hence, the petitioner sought to condone the delay. However, the trial Court dismissed the application. Challenging the same, the present revision has been filed.

3.I have perused the materials available on record.

4.Admittedly, the application for restoration has been taken up in time, which was returned four months later by the trial Court. Thereafter, it was represented on 14.03.2022, with a delay of 941 days. It is relevant to



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note that, in the month of March, 2020, lockdown was declared on account of Covid-19 Pandemic and the Apex Court, by order dated 10.01.2022, made in *Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020*, has excluded the period from 15.03.2020 till 28.02.2022 while computing limitation. However, this aspect has not been considered by the trial Court. Even assuming that there is some sort of negligence on the part of the petitioner, that cannot be a ground to take away the substantive right of the party. Any issue has to be decided only on the basis of merits. The substantive rights of the parties cannot be shut at the threshold merely on the basis of some negligent conduct of the parties, that too, in a case when the party has given a valid reason for the delay. It is relevant to note that the Hon'ble Apex Court, in the case of ***Robin Thapa vs. Rohit Dora*** reported in ***(2019) 7 SCC 359***, held that “a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.” Therefore, this Court is inclined to set aside the impugned order of dismissal.



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5. Accordingly, the order of the I Additional District and Sessions Court, Tiruppur, dated 05.02.2025, in I.A.No.1 of 2022 in O.S.No.195 of 2015, is set aside. Consequently, the application in I.A.No.1 of 2022 in O.S.No.195 of 2015, is allowed and the delay is condoned. Though the application to restore the suit is not yet re-presented, in order to advance substantial justice and to save time, the said application will also stand allowed, after being re-presented and numbered. Accordingly, the suit in O.S.No.195 of 2015 shall be restored to the file of I Additional District and Sessions Court, Tiruppur. The learned I Additional District and Sessions Judge, Tiruppur, is directed to issue notice to the defendant and thereafter, dispose of the suit on merits, within a period of three months from the date of receipt of a copy of the order.

6. With these directions, this Civil Revision Petition is allowed. No costs.

30.06.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The I Additional District and Sessions Judge,
Tiruppur.

2.The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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