



WEB COPY

CMA No. 1562 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1562 of 2025

1. M.Ponnusamy
S/o. Muthuswamy, D.No. 47,
Mariamman Koil Street,
Saravanampatti, Coimbatore.

Appellant(s)

Vs

1. C.Dhanabakkiyam
W/o. N.Balasubramaniam, D.No.
7/805, Ramamoorthy Nagar, Pongaloor,
Tiruppur 667

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Order XLIII Rule 1 of CPC, prays to set aside the Fair and Decretal order dated 05.02.2025 made in IA No. 2 of 2022 in OS No. 195 of 2015 on the file of the I Additional District and Sessions Court, Tiruppur.

For Appellant(s): Mr.V.Anandhamurthy

For Respondent(s): No Appearance

JUDGEMENT

The appellant has filed this appeal to set aside the Fair and Decretal order dated 05.02.2025 made in IA No. 2 of 2022 in OS No. 195 of 2015 on the file of the I Additional District and Sessions Court, Tiruppur.



2. The learned counsel for the appellant submitted that the appellant had filed a suit for recovery before the trial Court in the year 2015. The respondent / defendant contested the suit by filing a written statement. The matter was posted for trial on 23.11.2015. However, due to illness, the appellant was not able to appear before the Court. Consequently, the suit was dismissed for default on 25.02.2019. He further submitted that immediately thereafter, within 15 days, the appellant filed an application to restore the suit under Order IX Rule 9 CPC, but the same was returned. Due to lack of proper communication, the appellant was unable to represent the application within time, resulting in delay. Subsequently, owing to the COVID-19 pandemic, the appellant was also unable to pursue the matter diligently. Therefore, to condone the delay, the appellant filed I.A. No. 1 of 2022 in O.S.No.195 of 2015, which was allowed by this Court in C.R.P. No. 2036 of 2025, dated 30.06.2025 and accordingly, the delay stood condoned. Thereafter, the trial Court took up I.A. No. 2 of 2022 for restoring the suit. However, the learned trial Judge dismissed the said application, holding that the reasons stated by the appellant were not proper.

3. The learned counsel for the appellant further submitted that the petition for restoration was filed within time, but it was returned due to certain defects. There was no wilful negligence on the part of the appellant. The trial Court failed to consider these aspects in their proper perspective.



4. Even a perusal of the impugned order shows that the learned trial Judge observed that the delay for the period between 2019 and 2020 had not been properly explained. However, it is a well-known fact that the said period coincided with the COVID-19 pandemic, and therefore, the reasons assigned by the appellant are sufficient to restore the suit.

5. Accordingly, this Civil Miscellaneous Appeal is allowed, and the suit O.S.No.195 of 2015 is ordered to be restored. Both parties are directed to co-operate for the early disposal of the proceedings.

21-07-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
rri



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To

1.C.Dhanabakkiyam
W/o. N.Balasubramaniam, D.No.
7/805, Ramamoorthy Nagar, Pongaloor,
Tiruppur 667.

2.The I Additional District and Sessions
Court, Tiruppur.



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T.V.THAMILSELVI J.
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