



WEB COPY



C.R.P.No. 1787 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.B. BALAJI

C.R.P.No. 1787 of 2023
and
C.M.P.No. 11576 of 2023

Karthik

.. Petitioner

VS

Prakash

.. Respondent

Prayer : Petition filed under Section 115 CPC to set aside petition order dated 10.04.2022 made in I.A.No. 02 of 2022 in O.S.No. 34 of 2019 on the file of Subordinate Judge Dharapuarm in so far as condition imposed to deposit 70% of the decree amount is concerned.

For Petitioner : Mr.N.Ponraj

For Respondent : Mr.N.Stalin

ORDER

At the stage of cross-examination of the plaintiff in a civil suit, the defendant was set ex-parte. An application was filed under Order IX Rule 9 CPC within 30 days. However, the said application came to be allowed by imposing a condition that the petitioner



C.R.P.No. 1787 of 2023

should deposit 70% of the suit claim. Challenging the said order, the revision petitioner is before this Court.

WEB COPY

2. Heard Mr.Ponraj, learned counsel for the petitioner and Mr.N.Stalin, learned counsel for the respondent.

3. Learned counsel for the petitioner would state that the application was filed immediately upon the suit being decreed ex parte and there has been no delay whatsoever on the part of the revision petitioner. In such circumstances, the trial Court ought not to have imposed an onerous condition directing the petitioner to deposit 70% of the suit claim. He would also place reliance on the order passed in CRP (NPD) No. 2430 of 2022 dated 25.08.2022 in a similar matter where the very same Court had directed deposit of 70% of the decreed amount for allowing an application under Order IX Rule 13 CPC, which was filed in time. This Court, set aside the said order holding that the such onerous condition cannot be passed as a condition for setting aside ex parte decrees, especially when the application was filed in time and there was no delay. Ultimately, this Court modified the condition directed the petitioner / defendant there in to pay costs of Rs.2,000/- to the respondent and set aside the condition to deposit 70% of the decree amount.



C.R.P.No. 1787 of 2023

WEB COPY

4. Learned counsel for the respondent on the other hand would invite my attention to the adjudication in the A diary and contend that the petitioner has been habitually protracting the proceedings and, therefore, he should not be shown any indulgence and it is only considering his repeated absence before the Court that the Court has proceeded to direct the petitioners to deposit 70% of the suit claim.

5. I have carefully considered the submissions advanced by learned counsel on either side.

6. Hon'ble Supreme Court as well as this Court have repeatedly frowned upon the trial Courts imposing onerous conditions for setting aside exparte orders and decrees, especially when the applications are filed without any delay, within the period of limitation. In this case also, Order IX Rule 13 CPC application has been filed in time and there is no delay on the part of the petitioner. In such circumstances, the trial Court ought not to have imposed an onerous condition directing the petitioner to deposit 70% of the decree amount. This Court in *Balakumar's* case has also set aside a similar order passed by the very same Court.



C.R.P.No. 1787 of 2023

WEB COPY

7. In view of the above, I am inclined to set aside the order and modify the condition from 70% of the decree amount to Rs.5,000/-. The said cost of Rs.5,000/- shall be payable within a period of two (2) weeks from the date of receipt of a copy of this order to the learned counsel for the respondent before this Court. It is made clear that in view of the apprehensions raised by the respondent that the petitioner is protracting the proceedings, there shall be a direction to the trial Court to dispose of the suit by end of January, 2026.

8. This Civil Revision Petition stands allowed. No Costs. Connected miscellaneous petition is closed.

9. Post the matter on 10.10.2025 under the caption '*for reporting compliance*'.

25.09.2025

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

The Subordinate Judge,
Dharapuarm.



WEB COPY



C.R.P.No. 1787 of 2023

P.B. BALAJI, J.

ssm

C.R.P.No. 1787 of 2023

25.09.2025