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CRP(NPD)NO.2546 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24/11/2025

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRP(NPD)NO.2546 OF 2023

Devi

... Petitioner / Petitioner /
Plaintiff

Versus

1.Sankar

2.Kalaiselvi

3.Selvaraj

... 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 Decreetal Order dated March 20, 2023 made in I.A.No.147 of 2021 in O.S.No.12 of 2016 on the file of the Hon'ble Principal District Judge, Thiruvarur.

For Petitioner : Mr.Umapathy
for Mr.S.Muthu Kumar

For Respondents
1 to 3 : Mr.M.Raj Kumar

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ORDER

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Feeling aggrieved by the Dismissal Order passed in the petition filed by the Petitioner under Section 5 of the Limitation Act, 1963, praying to condone the delay of 698 days in filing the Petition under Order IX Rule 9 of 'the Code of Civil Procedure, 1908,' ('CPC' for short) praying to set aside the Dismissal Order dated April 09, 2018 made in I.A.No.147 of 2021 in O.S.No.12 of 2016, on the file of 'the Principal District Judge, Thiruvarur,' [hereinafter referred to as the 'Trial Court'], the Petitioner therein has filed this Civil Revision Petition.

2.Mr.Umapathy appearing for Mr.S.Muthu Kumar, Counsel on Record for the Revision Petitioner and Mr.Raj Kumar, learned Counsel appearing for the Respondents 1 to 3 are before this Court.

3.The 1st Respondent is the brother of the Revision Petitioner, the Revision Petitioner filed a Suit for Partition in O.S.No.12 of 2016. In the said Suit, both sides' evidence was completed and both sides' arguments were heard and the case was reserved for Judgment on January 17, 2018, the Trial Court dismissed the Suit for default on April 09, 2018.



4.The Revision Petitioner filed a Petition under Order IX Rule 9 of CPC to restore the Suit along with a petition to condone the delay of 1265 days in filing the Restoration Petition. In which, the condone delay application was dismissed. Feeling aggrieved by the Dismissal Order passed in I.A.No.147 of 2021, the Revision Petitioner is before this Court.

5.Learned Counsel appearing for the Revision Petitioner submits that, in the Suit, both sides' evidence was completed, both sides' arguments were completed and the case was reserved for Judgment. Thereafter, the Trial Court reopened the case for clarification on March 13, 2018, on that date, since the Revision Petitioner was unable to appear before the Court and it dismissed the Suit for default on April 09, 2018. He further submits that the Revision Petitioner was suffering from Arthritis and then the Covid-19 pandemic was intervened; that is the reason for which she was unable to appear before the Trial Court on the date of clarification.

6.Learned Counsel appearing for the Respondents 1 to 3 submits that when the case was posted for clarification, it was the duty of the



Plaintiff side to appear before the Trial Court to clarify the point, since she wantedly allowed the Suit to be dismissed. The reason assigned by the Revision Petitioner is not sufficient and accordingly, he prays to dismiss the Civil Revision Petition.

7.This Court has considered both sides' submissions.

8.Admittedly, both sides' evidence was completed and the case was reserved for Judgment and thereafter, the Trial Court *suo motu* reopened the case for clarification. Since the Revision Petitioner was unable to appear before the Trial Court, the Suit was dismissed for default. Hence, considering the facts and circumstances of the case and the reasons stated in the affidavit and considering the nature of the Suit as well as the stage of the Suit, this Court is inclined to allow this Civil Revision Petition.

9.Accordingly, this Civil Revision Petition is allowed and the Order passed by the Trial Court in I.A.No.147 of 2021 is set aside. Consequently, I.A.No.147 of 2021 is allowed. The Trial Court shall consider the Order IX Rule 9 petition if otherwise in Order and pass necessary Order as per law.



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WEB COPY Considering the facts and circumstances of the case, there shall be
no order as to costs.

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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

The Principal District Judge,
Thiruvarur.



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R. SAKTHIVEL, J.

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