



WEB COPY



C.R.P.No.3852 of 2025

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P. No. 3852 of 2025

and

C.M.P.No.20420 of 2025

Pavithran

...Petitioner

Vs

K.Kannusamy

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 C.P.C., to set aside the fair and final order dated 01.02.2025 made in I.A.No.04 of 2023 in O.S.No.206 of 2019 on the file of the I Additional Sub Court, Erode, Erode District, by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Anandhamoorthy
For Respondent : Mr.M.Mahamani

ORDER

Challenging the order dated 01.02.2025 made in I.A.No.04 of 2023 in O.S.No.206 of 2019 on the file of the I Additional Sub Court, Erode, Erode District, the defendant has filed the above Civil Revision Petition.

Page Nos.6/6

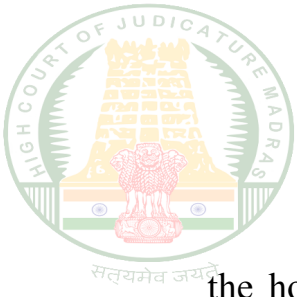


C.R.P.No.3852 of 2025

WEB COPY

2. According to the petitioner/defendant, the respondent/plaintiff filed a suit in O.S.No.206 of 2019 for partition and separate possession of the suit property before the I Additional Sub Court, Erode, where the petitioner/defendant set *ex-parte* on 23.09.2019. Thereafter, the trial Court passed *ex-parte* preliminary decree on 22.01.2020. Hence, the petitioner/defendant has filed an application in I.A.No.4 of 2023 in O.S.No.206 of 2019 under Section 5 of the Limitation Act seeking to condone the delay of 1025 days in filing the application to set-aside the *ex-parte* decree dated 22.01.2020 under Order IX Rule 13 C.P.C. The learned I Additional Subordinate Judge, Erode, by order dated 01.02.2025, rejected the application primarily on the ground that he had already filed two cases, viz., M.C.No.39 of 2018 and O.S.No.695 of 2021 against the respondent/plaintiff in the same Court complex and that he had appeared in those cases between 04.01.2020 and 22.01.2021. The said reasoning of the trial Court is legally unsustainable.

3. It is the contention of the petitioner that at the time of filing of the original suit, the petitioner was pursuing his studies while staying in



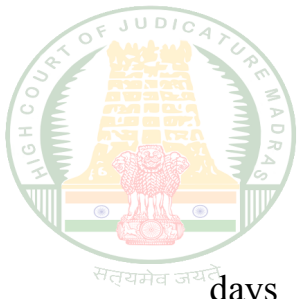
C.R.P.No.3852 of 2025

WEB COPY

the hostel. Though he had initially engaged a counsel to appear in the matter, due to academic commitments and financial constraints, he was unable to contact his counsel regularly and that too, he was unable to follow up the case regularly, due to Covid-19 Pandemic situation. The said counsel had also failed to inform about the progress or status of the case. After coming to know about the *ex-parte* decree passed on 22.01.2020, the petitioner immediately filed an application for seeking to condone the delay of 1025 days in filing the application to set-aside the *ex-parte* decree. In the affidavit filed in support of the condonation application, the petitioner had given valid, sufficient and justifiable reasons, however, the Court below, without application of mind, dismissed the application. Hence, the present petition.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. It is seen from the records that the petitioner has not filed the application seeking to set aside the *ex-parte* decree within a period of 30



C.R.P.No.3852 of 2025

WEB COPY

days from the date of passing of *ex-parte* decree, but he filed the application seeking to condone the delay of 1025 days in filing the application to set-aside the *ex-parte* decree. It is seen that before the trial Court, the petitioner appeared through a Counsel and thereafter, he remained absent and therefore, *ex-parte* decree came to be passed. Though the reasons assigned by the petitioner for his absence before the trial Court, are not acceptable, as an educated person, the petitioner must follow the procedures or he can get advise from his counsel or otherwise he could have traced the proceedings through electronic mode. However, the petitioner, without bothering about the pending proceedings against him, had slept over the matter for more than 3 years and filed the application with delay of 1025 days. The Court below, after considering the facts, rightly dismissed the application.

6. Under these circumstances, this Court does not find any perversity or infirmity in the order passed by the learned I Additional Subordinate Judge, Erode and hence, this Civil Revision Petition is



C.R.P.No.3852 of 2025

WEB COPY

dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.08.2025

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
ms

To

The I Additional Subordinate Judge,
Erode, Erode District.



WEB COPY



C.R.P.No.3852 of 2025

P.VELMURUGAN, J

ms

C.R.P. No. 3852 of 2025

21.08.2025