



C.R.P. No.4023 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P. No.4023 of 2025 and
CMP No.20866 of 2025

S.Ravindra Kumar

... Petitioner

Vs.

Dhana Capital and Finance Limited

Formerly known as

M/s.Christina Finance & Investment Ltd.

Rep. by its Director, Mr.N.R.D. Premkumar

Registered Office at NRD Tower

No.11, Jawaharlal Nehru Road

Ashok Nagar, Chennai - 600 093

also

M/s.Christina Finance & Investment Ltd.

Rep. by its Director, Mr.N.R.D. Premkumar

Registered Office at NRD Tower

No.11, Jawaharlal Nehru Road

Ashok Nagar

Chennai - 600 093

(As per I.A.No.6 of 2024 in O.S.No.2444/2019)

... Respondent

(Cause title accepted vide court order dated 20.08.2025 made in CMP

Nos.19318 and 19340 of 2025 in CRP SR.Nos.96340 and 124412 of 2025)



C.R.P. No.4023 of 2025

Prayer: Civil Revision Petition filed under Section 115 CPC to set aside the order and decreetal order passed in I.A.No.6 of 2024 in O.S.No.2444 of 2019 on the file of XIX Additional City Civil Court, Chennai dated 21.03.2025.

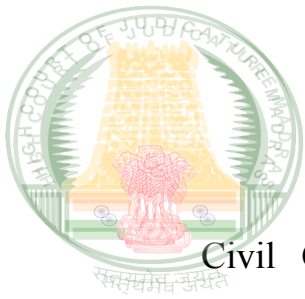
For Petitioner : Mr.Charles Kamalesh M.Appaji

For Respondent : M/s.S.Sangeetha
for M/s.Manivasagam Associates

ORDER

This Civil Revision Petition has been filed by the petitioner/defendant to set aside the order and decreetal order passed in I.A.No.6 of 2024 in O.S.No.2444 of 2019 on the file of XIX Additional City Civil Court, Chennai dated 21.03.2025.

2. The case of the petitioner/defendant is that respondent/plaintiff had earlier filed a suit before the original side of this Court as Mortgage suit in C.S.No.555 of 2017 for the suit claim of Rs.36,31,278/- and due to change of pecuniary jurisdiction, the said suit was transferred to the City Civil Court and numbered as O.S.No.2444 of 2019 and dealt with by the XIX Additional City



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Civil Court, Chennai. On service of summons, the petitioner/defendant

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appeared through counsel, however, since he did not file the written statement,

he was set ex-parte and an ex-parte decree came to be passed on 14.09.2023.

Thereafter, the petitioner/defendant filed an application to set aside the ex-parte

decree along with an application in I.A.No.6 of 2024 to condone the delay of

297 days in filing the petition to set aside x-parte decree. The revision

petitioner had also filed written statement along with the said application

disputing the claim of the respondent/plaintiff. But the same was dismissed by

order dated 21.03.2025. Aggrieved over the same, the present revision is filed.

3. The learned counsel for the petitioner/defendant submitted that since his earlier counsel expired, he could not follow up the case. Thereafter, he had engaged another counsel. The respondent/plaintiff had informed that already ex-parte decree was passed and they are proceeding against the property of the petitioner/defendant and when the petitioner/defendant enquired, his Counsel handed over the case bundle to the petitioner/defendant along with the change



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of Vakalat. Thereafter, the petitioner/defendant made an enquiry and came to

known that on 14.09.2023 itself, he was called absent and ex-parte decree was passed and he was advised to file an application to condone the delay. Hence, he filed the application in I.A.No.6 of 2024 to condone the delay of 297 days in filing the petition to set aside the ex-parte decree. However, the trial Court failed to consider the reason assigned by him and dismissed the application. Hence, the order passed by the trial Judge is liable to be set aside and the present revision petition may be allowed.

4. The learned counsel for the respondent/plaintiff submitted that the suit was filed under Order XXXVII Rule 1 CPC which is a summary in nature. If at all the petitioner has got any defence and triable issues, he ought to have filed an application for leave to defend the suit, or else, he will not be entitled to proceed further. Further, though the summon was duly served on the petitioner/defendant and though he had engaged a counsel, he did not prosecute the case. Therefore, the trial Court passed the ex-parte decree. Subsequently,



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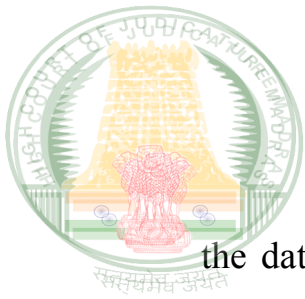
the petitioner filed an application to condone the delay in filing the application

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to set aside the ex parte decree. But he had not properly assigned the reasons as to why he did not file the application within a period of 30 days from the date of ex-parte order. Therefore, the trial Court rightly dismissed the application and there is no merits in this revision.

5. Heard both sides and perused the materials available on record.

6. It is seen that the suit was filed under Order XXXVII Rule 1 CPC and summon was served and the petitioner also engaged a counsel. However, no application was filed for leave to defend the suit within 10 days from the date of receipt of summon or otherwise as stated by the learned counsel for the respondent/plaintiff, no written statement was filed either within 30 days or within 90 days with the leave of the Court. Therefore, the ex-parte decree was came to be passed. Beyond 90 days, the defendant has to give a specific reason for non filing of the written statement. The petitioner/defendant ought to have filed the application within 30 days from the date of ex-parte decree or from



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the date of knowledge. But he filed the application to set aside the dx-part

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decree along with the application to condone the delay in filing the said application with a delay of 297 days.

7. A reading of the affidavit filed before the trial Court shows that the petitioner/defendant has given the reason that his previous counsel died, but, however, the litigant should not wait for more than six months, to engage another counsel. Therefore, the reason assigned by the petitioner/defendant is not satisfied and the trial Court rightly dismissed the application and this Court does not find any merits in this revision.

8. Accordingly, this Civil Revision Petition is dismissed. Consequently the connected Miscellaneous Petition is closed.

28.08.2025

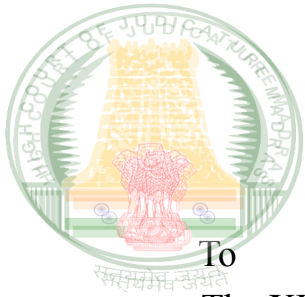
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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The XIX Additional City Civil Court,
Chennai

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P.VELMURUGAN,J.

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