



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-08-2025

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CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRP No. 3611 of 2025

and

CMP No.19438 of 2025

S.Thangaraj
S/o. Subbaya,
Residing at D.No. 843, Palaniandavar
Nagar, Chettipalayam,
Dharapuram Road, Tiruppur.

Petitioner

Vs

Govindaraj
Res. at D.No. 2, Amarjothi Garden,
Mangalam Road, Karuvampalayam,
Tiruppur-641604

Respondent

PRAYER This Civil Revision Petition is filed under Order 115 of C.P.C., to set aside the fair and executable order dated 15.04.2025, made in IA No. 1/2024 in OS No. 170/2011 on the file of Principal Sub Court, Tiruppur.

For Petitioner(s): Mr.D.K.Ilamparithi

For

Respondent/Caveator Mr.V.K.Vengadesh Durai Raja
for Mr.Deepan Uday



ORDER

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This Civil Revision Petition has been filed to set aside the fair and executable order dated 15.04.2025 passed in IA No. 1/2024 in OS No. 170/2011 on the file of the Principal Sub Court, Tiruppur.

2.The learned counsel for the petitioner submitted that, originally, the suit was filed and numbered as O.S.No.494 of 2010 before the I Additional District Court, Coimbatore. Subsequently, the said suit was transferred to Subordinate Court, Tiruppur and re-numbered as O.S.No.170 of 2011. The said fact was not brought to the knowledge of the petitioner/defendant. The learned counsel did not inform the same to the petitioner. Due to mistake committed by the counsel, the party should not suffer. Later, the pre-suit notice was served on the petitioner. Thereafter, the petitioner came to know about the *ex-parte* decree dated 06.08.2014 passed against him. Subsequently, the petitioner tried to get a certified copy of the order to know the fate of the case, due to which, the delay has occurred. Hence, the petitioner could not file an application to set aside the *ex-parte* decree within a stipulated time. However, the petitioner has filed an



application in I.A.No.1 of 2024 in O.S.No.170 of 2011 on the file of the

Principal Subordinate Court, Tiruppur, to condone the delay of 3521 days in

filing the petition to set aside the *ex-parte* decree. Though, he has given proper

explanation to condone the delay, the learned Judge failed to consider the

reasons assigned by the petitioner and dismissed the said application, vide

impugned order dated 15.4.2025 . Hence, the petitioner/defendant is before this

Court.

3. The learned counsel for the respondent/plaintiff submitted that the petitioner came to know about the *ex-parte* decree even in the year 2014 itself and he had already filed an application to set aside the *ex-parte* decree, with a delay of 108 days and subsequently he did not proceed with the application further. He kept quiet for some days. Thereafter, the respondent/plaintiff had filed an execution petition in EP No.252 of 2023 for execution of the sale deed dated 05.7.2007 and notice was also served on the petitioner herein. Only in order to protract the EP proceedings, the petitioner had approached the trial Court, filed a petition to condone the delay of 3521 days in filing the petition to set aside the *ex-parte* decree.



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

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5. Admittedly, the respondent herein who was the plaintiff filed a suit in O.S.No.170 of 2011 against the petitioner herein/defendant, seeking specific performance. Though the petitioner herein had entered through a counsel, neither he contested the case, nor filed a written statement. Hence, an *ex-parte* decree was passed on 06.08.2014. Subsequently, the respondent/plaintiff filed an execution petition in E.P.No.252 of 2023 before the learned Principal Sub Judge, Tiruppur, to execute the sale deed dated 05.7.2007. The petitioner/defendant herein has kept quite for long time, till filing of the execution petition by the respondent/plaintiff. After about 10 years, the petitioner has filed this civil revision petition, suppressing the fact that he had already filed an application to set aside the *ex-parte* decree, which itself shows that the petitioner has knowledge about the *ex-parte* decree in the year 2014 itself. However, the petitioner has filed an application in I.A.No.1 of 2024 in O.S.No.170 of 2011 on the file of the Principal Subordinate Court, Tiruppur, to condone the delay of 3521 days in filing the petition to set aside the *ex-parte*



decree and the same was dismissed, vide order dated 15.4.2025 by the learned

Principal Subordinate Judge, Tirupur. Aggrieved by the same, the petitioner has filed this civil revision petition. The petitioner has not come to the Court with clean hands.

6. Considering submission made by the learned counsel on either side and also considering the materials available on record, this Court does not find any perversity in the impugned order passed by the Trial Court in dismissing the petition for condoning the delay. The Trial Court has rightly dismissed the petition filed by the petitioner. There is no merit in the civil revision petition. Hence, this civil revision petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22-08-2025

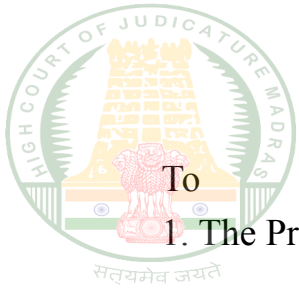
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Case Citation: Yes/No



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To

1. The Principal Sub Judge, Tiruppur.

2. The Record Keeper,

VR Section, High Court, Madras.



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P.VELMURUGAN J.

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