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C.R.P.No.3683 of 2025

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 18.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P. No. 3683 of 2025

and

C.M.P.No.19754 of 2025

Mookayee

...Petitioner

Vs

Markandan

...Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, praying to direct the 1st Additional Sub Court, Salem to number the petition filed in I.A.No. Unnumbered of 2025 in I.A.No.1 of 2023 in O.S.No.99 of 2016 which is returned on 30.01.2025.

For Petitioner : Mr.T.Ganesan

ORDER

This Civil Revision Petition is filed to direct the 1st Additional Subordinate Judge, Salem to number the petition filed in I.A.No. Unnumbered of 2025 in I.A.No.1 of 2023 in O.S.No.99 of 2016, which was returned on 30.01.2025.

2. Heard the learned counsel for the petitioner and perused the

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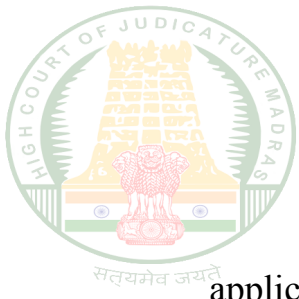


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materials available on record.
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3. It is seen from the records that the respondent/plaintiff has filed O.S.No.99 of 2016 for recovery of money against the petitioner/defendant, which came to be decreed *ex-parte* on 16.03.2022. Thus, the petitioner/defendant has filed an application in I.A.No.1 of 2023 in O.S.No.99 of 2016 invoking Section 5 of Limitation Act seeking to condone the delay of 456 days in filing the application to set-aside the *ex-parte* decree dated 16.03.2022. The learned I Additional Subordinate Judge, Salem, *vide* order dated 10.08.2024 allowed the said application subject to the payment of Rs.5,000/- as costs to be paid by the petitioner to the respondent. Since the petitioner did not comply with the directions of the Court below, the said application in I.A.No.1 of 2023 was dismissed on 18.09.2024. Thereafter, the petitioner/defendant, has filed an application under Section 148 CPC seeking extension of time to comply with the order along with an application under Section 5 of the Limitation Act seeking to condone the delay of 133 days in filing the application under Section 148 CPC.

4. The Court below, after considering the facts, returned the



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application filed under Section 5 of the Limitation Act questioning the maintainability stating that already Section 5 application was dismissed on 18.09.2024 for non compliance of condition imposed by the Court. Therefore it is clear that the petitioner filed application under Section 148 CPC seeking extension of time, for which also there is delay of 133 days, which is beyond the period of limitation and hence the Court below has rightly rejected the applications.

5. In view of the above and considering the facts and circumstances, this Court does not find any reason to interfere with the order passed by the Court below returning the applications and hence, this Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.08.2025

Neutral Citation Case : Yes/No

ms

To

The 1st Additional Subordinate Judge, Salem.



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P.VELMURUGAN, J
ms

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