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CRP No.4420 of 20_



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4420 of 2025 and CMP No.22607 of 2025

Rama Gounder

... Petitioner

Vs.

Muthu

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 19.03.2025 in I.A.No.725 of 2022 in O.S.No.109 of 2019 passed by Principal District Munsif Court, Thirukovilur.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondent : Mrs.R.Poornima

ORDER



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Heard Mr.K.T.S.Sivakumar, the learned counsel for the revision petitioner and Mrs.R.Poornima, learned counsel for the respondent.

2. The revision petitioner is the plaintiff in O.S.No.109 of 2019, aggrieved by the order condoning the delay in filing the application to set aside the exparte decree made by the respondent/4th defendant in the suit.

3. It is the specific case of the revision petitioner that the respondent had refused to receive summons and subsequently, along with other defendants, he has also been set exparte and decree has been passed on 03.08.2021. The defendants have not chosen to file any application to set aside the exparte decree and it is only the fourth defendant who has come forward with the application.

4. It is the contention of the learned counsel for the petitioner that the defendants 1 to 3 are the actual owners of the properties and the fourth



defendant is only a formal party and though he claims ownership, it is being disputed by the revision petitioner/plaintiff. He would therefore state that the trial court ought not to have allowed the application to condone the delay of 401 days in filing the application to set aside the exparte decree.

5. Per contra, learned counsel for the respondent/fourth defendant would submit that at no point of time, the respondent was served with summons. The categorical case of the respondent before the trial court was that he was never served with summons and he came to know about the suit only in the police station on 15.09.2022 and immediately, thereafter, an application was filed on 10.10.2022, within the period of thirty days . He would further state that the respondent has only been set exparte pursuant to the paper publication being effected and not on account of refusal of summons. Learned counsel for the respondent further states that the cost of Rs.3,000/-awarded by the trial Court to condone the delay has already been deposited before the trial Court and she would therefore pray for dismissal



basis of refusal alone.

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9. In the light of the above, the trial court had exercised judicial discretion on the available materials. I do not think that it is a case, where interference is warranted in this revision.

10. In the result, the civil revision petition is dismissed. However, considering that the parties have lost substantial time before this Court in the above revision and also contesting the setting aside applications from 2022 onwards, I suo-motu entertain the application under Order IX Rule 13 of Civil Procedure Code, subject to the respondents paying cost of Rs.3,000/- (Rupees Three thousand only) to the revision petitioner within a period of two weeks from the date of receipt of a copy of this order.

11. On such payment, the exparte decree dated 03.08.2021 shall stand set aside and the trial court shall frame issues within a period of one week



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thereafter and commence trial and dispose of the suit in O.S.No.109 of 2019

on merits and in accordance with law on or before 30.04.2026.

12. With the above direction, the civil revision petition is dismissed.

01.12.2025

Neutral Citation: Yes/No

Speaking Order/Non-speaking Order

Index : Yes / No

sr

To

The Principal District Munsif Court, Tirukovilur



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P.B.BALAJI,,J

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