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C.R.P.No.249 of 2025

IN THE HIGH COURT OF JUDICATURE AT MARAS

DATED : 24..06..2025

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.249 of 2025

S.Paranthaman

..... Petitioner

-Versus-

Lavanya

..... Respondent

Petition filed under Article 227 of the Constitution of India, praying to set aside the return order dated 07.11.2024 passed by the learned Additional Subordinate Judge, Villupuram, in I.A. (SR) No.6023 of 2024 in O.S. No.279 of 2013, and to direct the Additional District Judge to admit the application filed under Order IX Rule 13 of the CPC for further adjudication.

For Petitioner : *Mr.S.Natarajan*

For Respondent : *Mr.N.Suresh*

ORDER

This Civil Revision Petition challenges the order dated 07.11.2024 passed by the learned Additional Subordinate Judge, Villupuram, returning the application filed by the revision petitioner under Order IX Rule 13 of the Code of Civil Procedure, seeking to set aside the ex parte decree dated 10.12.2014 in O.S. No.279 of 2013, on the ground that the application is barred by limitation, as the revision petitioner had acquired knowledge of the ex parte decree as early as in 2024 and, therefore, ought to have filed the application along with a petition under Section 5 of the Limitation Act, 1963, seeking condonation of



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delay.

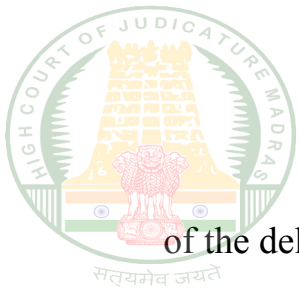
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2. Heard the learned counsel for the revision petitioner.

3. The learned counsel for the petitioner would submit that, with respect to the ex parte decree, the petitioner came to know of the same only in 2024, as his Advocate did not inform him immediately. Therefore, the application filed under Order IX Rule 13 of the CPC, within 30 days from the date of knowledge of the ex parte decree, is maintainable.

4. At the outset, this Court is of the view that the very affidavit filed along with the application under Order IX Rule 13 of the CPC indicates that the petitioner had engaged an Advocate on 10.12.2014 itself. Therefore, once a party is aware of the proceedings and has engaged an Advocate to defend him in the suit, he cannot later claim that he had no knowledge of the proceedings or that his Advocate failed to inform him about the ex parte decree. The contention that he became aware of the ex parte decree only at a much later point, after the lapse of several years, is not tenable.

5. This Court is therefore of the view that, if the revision petitioner genuinely intends to prosecute the suit, he may represent the application under Order IX Rule 13 of the CPC, which was returned by the learned Additional District Judge and is the subject matter of the present revision petition along with an application under Section 5 of the Limitation Act, seeking condonation



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of the delay by adequately explaining the cause for such delay. In that event, the period during which the revision petition was pending shall be excluded while computing the limitation for filing the application to set aside the ex parte decree.

6. Accordingly, the Civil Revision Petition is dismissed, however, with the above directions. The Registry is directed to return the original application in I.A. (SR) No.6023 of 2024, filed under Order IX Rule 13 of the CPC, to the petitioner through the counsel on record, on proper acknowledgement. No costs.

Index : yes / no
Neutral Citation : yes / no

24..06..2025

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To

1.The Additional Subordinate Judge, Villupuram, Villupuram District.



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N.SATHISH KUMAR.J.,

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