



WEB COPY



C.R.P.(NPD) No.5370 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.01.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.5370 of 2024
and C.M.P.No.29777 of 2024

S.M.Mani

... Petitioner/Petitioner/Respondent/Plaintiff

-VS-

1. Kalaivani
2. Devika
3. Sadhana
4. Goushar Rahmat
5. Santhi Balachander

... Respondents/Respondents/Petitioners/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Docket Order dated 30.08.2024 passed in I.A(SR) No.7497 of 2024 in I.A.No.1 of 2023 in O.S.No.49 of 2021 on the file of the Principal District Court, Dharmapuri and consequently direct the Court concerned to take on file and dispose the same on merits.

For Petitioner : Mr.D.Thirumoorthy

ORDER

Challenging the order dated 30.08.2024 of the Trial Court rejecting the application filed by the revision petitioner, the present revision petition has been filed.



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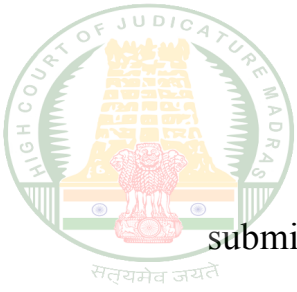
2. Notice to the respondent is dispensed with, as no adverse order is going to be passed against her.

Facts of the case in nutshell:

3. The revision petitioner is the Plaintiff in the suit in O.S.No.49 of 2021, which was filed for specific performance of the agreement and the said suit appears to have been decreed *ex parte*. Thereafter, an application had been taken out by the 5th respondent / 5th defendant on behalf of all the defendants to condone the delay of 493 days in setting aside the *ex parte* decree. The said application had been numbered as I.A.No.1 of 2023.

4. At that stage, the revision petitioner has filed an application, alleging that the signature of the 5th defendant contained in the affidavit filed in support of condoning the delay is not that of her. That application has been returned. Challenging the same, the instant revision petition has been filed.

5. Learned counsel for the revision petitioner would mainly



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submit that the Trial Court may be directed to decide the application on merits.

6. At the outset, this Court is of the view that filing of such application by the plaintiff is nothing, but an abuse of process of law. It is for the defendant to dispute her signature and not the plaintiff. When the defendant has admitted her signature and filed an application, the plaintiff cannot take advantage in filing the application. The defendant filed the application only to condone the delay and what could be seen is whether the delay has been properly explained or not and that alone has to be tested. When the issue of signature was never an issue raised by the party, who signed the document, again directing the Court to decide the issue will not serve any purpose. Hence, the application filed by the revision petitioner in this regard is struck off and the Trial Court is directed to dispose of the application filed for condoning the delay on its own merits within a period of two months from the date of receipt of a copy of this order and proceed further.

N.SATHISH KUMAR,J.,
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With the above observations and directions, this Civil Revision

WEB COPY Petition is disposed of. No costs. Consequently, connected Miscellaneous

Petition is closed.

06.01.2025

Index: Yes / No

Internet: Yes / No

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To:

The Principal District Judge,
Dharmapuri.

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