



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 20.08.2025

CORAM

**THE HONOURABLE MR JUSTICE P.B. BALAJI**

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**CRP.No.5144 of 2024**  
**and CMP. No.28837 of 2024**

Indian Overseas Bank,  
Rep by its Branch Manager,  
Gangaikondacholapuram Branch,  
Jaykondam Tk, Ariyalur District.

... Petitioner

Vs.

Kannan

... Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 16.08.2024 made in I.A. No.10 of 2024 in O.S. No.386 of 2015 on the file to the District Munsif, Jaymakondam.

For Petitioner : Mrs.Sheela Venkatesh  
For Respondent : Mr.M.Tamizhavel

**ORDER**

The revision petitioner challenging the dismissal of I.A. No.10 of 2024 in O.S. No.386 of 2015 on the file of the District Munsif, Jaymakondam. The said Application was filed to extend the time for payment of costs in I.A. No. 8 of 2023.

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

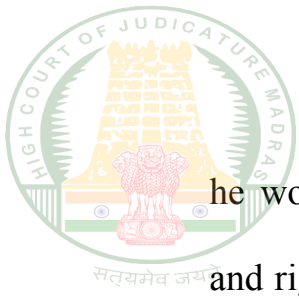


the respondent.

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3. The learned counsel for the Bank states that in the E.Court site, the Application in I.A. No. 8 of 2023, was reflected as if it was pending and therefore, there was no occasion for the petitioner Bank to know about the order imposing costs in I.A. 8 of 2023, however, they came to know about the order only on the next date of hearing and thereafter, they have taken out an I.A. No.10 of 2024 for extension of time to pay the costs awarded by the Trial Court. The learned counsel would therefore states that fair opportunity may be granted to the petitioner Bank, since auction has already been conducted and the jewels also handed over to the successful auction purchasers and taking advantage of the exparte decree, the respondents/plaintiffs are attempting to execute the exparte decree by seeking arrest of the Bank Officials.

4. Per contra, learned counsel for the respondent states that the Application in I.A. No.10 of 2024 is not maintainable as it was filed belatedly after dismissal of I.A. No.8 of 2023 and thereafter, suit has been decreed exparte and execution proceedings have also been taken. Therefore,



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he would state that the Petitioner Bank does not deserve any indulgence, and rightly the Trial Court has dismissed the Application and the same does not warrant interference.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. It is the specific case of the petitioner that the respondent's jewellery which were pledged with the Petitioner's Bank had been auctioned in public auction and the purchasers were also given custody of the jewellery and the excess sale proceeds were also remitted to the account of the plaintiffs and thereafter, the present suit has been filed to declare the said auction is null and void. Pending the suit, the petitioner Bank has remained exparte and decree also came to be passed. In order to set aside the said exparte alone, I.A. No. 8 of 2023, was filed. The said I.A. came to be allowed imposing costs of Rs.3,000/- on or before 19.06.2024 and the suit was called on 21.06.2024 for reporting compliance. However, admittedly, the petitioner Bank has not paid the said costs on or before 19.06.2204 and on 21.06.2024, noticing that the conditional order was not complied by the



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revision petitioner Bank, the Trial Court has dismissed I.A. No.8 of 2023 and thereby, an exparte decree was passed. Thereafter, the petitioner has taken out an Applicaiton in I.A. No.10 of 2024 only for extension of time to pay the costs, without seeking to set aside the I.A. No.8 of 2023, Therefore, I find force in the submission of the learned counsel fro the respondent, the application merely seeking extension of time is not maintainable as prayed without challenging the order of decree in I.A.8 of 2023. As on date, the decree though passed exparte is staring at the face of the petitioner and Execution Petition is also initiated for arrest.

7. Considering all the above circumstances, in order to give one opportunity to the petitioner Bank to contest the suit on merits, I am inclined to set aside the exparte decree suo motu, subject to payment of costs of Rs.50,000/- (Rupees Fifty Thousand only) to the petitioner Bank to the respondent/plaintiff within a period of four (4) weeks from the date of receipt of the copy of the order. Costs shall be paid to the plaintiff before the Trial Court. Subject to compliance of the above, imposing costs of Rs.50,000/-, the exparte decree shall stand set aside and the trial of the suit shall proceed with, the suit can be disposed of within a period of four (4)



months.

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8. This Civil Revision Petition is disposed of with the above directions. Consequently, connected Miscellaneous Petition is also closed.  
No costs.

**20.08.2025**

Speaking/Non-speaking : Yes/No

Index : Yes / No

rkp

To

The District Munsif, Jaymakondam.

**P.B.BALAJI.J.,**

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