



C.R.P.No.212 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.212 of 2025

S.Lakshmi

... Petitioner

Vs.

D.Meenatchi

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the Principal Subordinate Court, Puducherry, in C.M.A.No.4 of 2023, dated 16.10.2024 and restore the suit in O.S.No.1709 of 2012 on the file of the II Additional District Munsif Court, Puducherry.

For Petitioner : Mr.C.Suraj
and Ms.R.Ajitha

For Respondent : No appearance

ORDER

Challenging the concurrent findings of the Court below, dismissing the application to restore the suit which was dismissed for default on 10.12.2018, the present revision has been filed.



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2.The suit in O.S.No.1709 of 2012 has been originally filed by the petitioner for permanent injunction. The said suit was dismissed for default on 10.12.2018 on the ground that the plaintiff, instead of proceeding with the trial or arriving at a settlement, had been filing petition after petition and dragging the matter and remained absent before the Court and the said conduct indicates that the intention of the plaintiff is only to protract the proceedings. Thereafter, the plaintiff filed the present application in I.A.No.93 of 2019 in O.S.No.1709 of 2012 before the trial Court for restoration of the suit. The said application has been dismissed by the trial Court by order dated 07.12.2022. On appeal in C.M.A.No.4 of 2023, the Appellate Court, by its judgment dated 16.10.2024, confirmed the order of the trial Court. Challenging the concurrent findings of the Courts below, the present revision has been filed.

3.It is the contention of the revision petitioner/plaintiff that the plaintiff has purchased the property and she is in possession of the property; since the defendant/respondent is also claiming right over the property and the dispute was only with regard to the identity of the property, they wanted

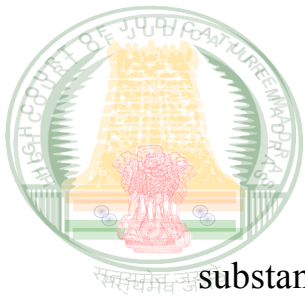


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to go for a settlement, and therefore, the suit was allowed to be dismissed for default. However, thereafter, the settlement did not fructify. Therefore, the plaintiff immediately filed the present application to restore the suit within 10 days. However, the trial Court has not taken note of the circumstances and has dismissed the application. Hence, the learned counsel seeks to set aside the order of the Courts below.

4.I have perused the entire materials available on record.

5.Though the suit has been filed in the year 2012, it came to be dismissed in the year 2018 after more than 6 years. The crux of the issue is with regard to the restoration of the suit. The application for restoration is filed within 10 days from the date of dismissal. Though the earlier conduct of the plaintiff, is not appreciable, this Court is of the view that the substantive rights of the parties cannot be shut merely on the negligent conduct of the parties. It is clearly stated that the suit was allowed to be dismissed for default only in view of facilitating the settlement. However, as the settlement did not fructify, the application has been filed within 10 days. Any dispute has to be decided only on the basis of merits. The



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substantive rights of the parties cannot be shut at the threshold merely on the basis of some negligent conduct of the parties which was not relevant at all to decide the application. It is relevant to note that the Hon'ble Apex Court, in the case of **Robin Thapa vs. Rohit Dora** reported in **(2019) 7 SCC 359**, held that *“a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.”* Therefore, in order to give a last chance to the plaintiff to prosecute her suit on merits, this Court is inclined to set aside the impugned orders of dismissal.

6. Accordingly, the order of the Principal Subordinate Court, Puducherry, in C.M.A.No.4 of 2023, dated 16.10.2024, and the order of the II Additional District Munsif, Puducherry, in I.A.No.93 of 2019 in O.S.No.1709 of 2012, dated 07.12.2022, are set aside. The suit in O.S.1709 of 2012 is restored to the file of the II Additional District Munsif Court, Puducherry. The learned II Additional District Munsif, Puducherry, is directed to issue notice to the defendant and dispose of the suit on merits, within a period of three months from the date of receipt of a copy of the



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order.

7.With these directions, this Civil Revision Petition is allowed. No

costs.

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The Principal Subordinate Judge,
Puducherry.

2.The II Additional District Munsif,
Puducherry.

3.The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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