



CRP.No.5686 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5686 of 2025 and

CMP.No.28393 of 2025

1. R.Rathinam
2. R.Senthil
3. R.Mohan Raj

... Petitioners

Vs.

P.Sendrayan

...Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the Fair and Final Order dated 18.9.2025 passed in IA.NO.5/2024 in OS.No.719/2017 on the file of the II Additional District Munsif Court at Salem.

For Petitioners

: M/s.D.Jeevitha
for Mr.R.Nalliyappan



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CRP.No.5686 of 2025

ORDER

The civil revision petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondent/plaintiff seeking restoration of the suit.

2. The respondent herein filed a suit for declaration and injunction. The suit was posted for cross-examination of P.W.1 on 04.06.2024 on that date, there was no representation for the respondent and hence, the same was dismissed for default. Therefore, the respondent filed interlocutory application seeking restoration of the suit on 25.06.2024 well within 30 days. In the affidavit filed in support of the restoration petition, it was stated by the

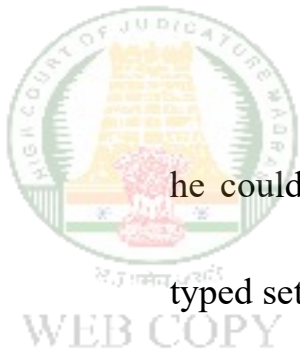


CRP.No.5686 of 2025

respondent that on that particular date, he was suffering from fever and stomach infection. Therefore, he could not appear before the Court. Accepting the reason given by the respondent, the petition was allowed. Aggrieved by the same, the petitioners/defendants have come before this Court.

3. The learned counsel for the petitioners, by taking this Court to the detailed order passed by the Trial Court on 04.06.2024 dismissing the suit for default, submitted that inspite of several opportunities, the respondent failed to get along with the trial. Therefore, the Trial Court was pleased to dismiss the suit for default. In such circumstances, the Trial Court ought not have restored the suit on the application filed by the respondent.

4. As far as the petition to restore the suit is concerned, if the petitioner is able to show sufficient cause for his failure to appear on particular date on which the suit was dismissed for default, the same can be entertained. In the case on hand, the respondent, in his own affidavit had clearly stated that on the date of hearing, he was suffering from fever and stomach infection and hence,

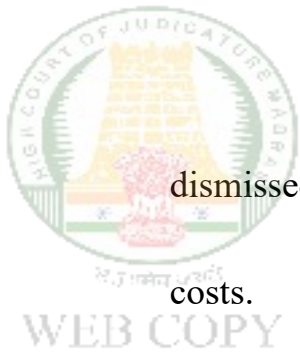


CRP.No.5686 of 2025

he could not appear. In fact, a perusal of the adjudication sheet filed in the typed set of papers would indicate that even on 04.06.2024, a petition was filed on behalf of the respondent seeking adjournment citing health reasons. However, taking into consideration the previous conduct of the respondent, the suit was dismissed for default.

5. It is settled law that if the party is able to show sufficient cause for his non-appearance on the date on which the suit was dismissed for default, the suit shall be restored. In the case on hand, the sufficient reason was given by the respondent for his failure to appear on 04.06.2024. Further, the relief sought for in the suit is for declaration and injunction.

6. Taking into consideration the suit is filed by respondent/ plaintiff is regarding title dispute and the respondent had also shown sufficient cause for his non-appearance on 04.06.2024, the Trial Court rightly allowed the application restoring the suit. I do not find any error in the impugned order passed by the Trial Court. Accordingly, the civil revision petition stands



CRP.No.5686 of 2025

dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

17.11.2025

Index : Yes / No

Internet : Yes / No

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To

The II Additional District Munsif Court at Salem.



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CRP.No.5686 of 2025

S.SOUNTHAR, J.

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CRP.No.5686 of 2025 and
CMP.No.28393 of 2025



WEB COPY



CRP.No.5686 of 2025

17.11.2025