



CMP(MD) NO. 2189 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25-06-2025

CORAM

THE HONOURABLE MR JUSTICE K.K. RAMAKRISHNAN

CMP(MD) NO. 2189 of 2025

IN

AS(MD) SR NO. 3732 OF 2016

Boominathan

Petitioner(s)

Vs.

Markandan

Respondent(s)

For Petitioner(s):

Mr.Sc.Herold Singh

Mr.L.Jeen Felix

Mr.B.Arunprasanth

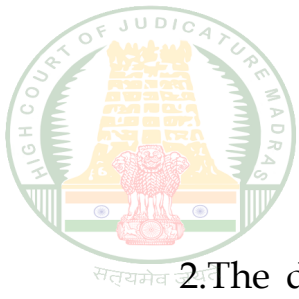
For Respondent(s):

Sole Respondent - Markandan

(sole Respondent - Service Effected Through Paper Publication)

ORDER

This petition has been filed to condone the delay of 3208 days in re-presenting the case in A.S.(MD)SR.No.3732 of 2016.



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2.The defendant in the suit in O.S.No.38 of 2011 on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur, has filed the appeal challenging the decree passed against him by the impugned Judgment dated 01.12.2015.

3.According to the petitioner/defendant, in the above said suit, the plaintiff filed the said suit stating that he executed the sale agreement, dated 24.12.2009, and the petitioner/defendant failed to act as per terms of the sale agreement and hence, the plaintiff filed the said suit seeking relief of specific performance of the sale agreement dated 24.12.2009. The petitioner has filed the written statement denying the said allegation that he executed the sale agreement as alleged in the plaint and he specifically stated that the said agreement was executed only for the purpose of security of loan transaction. The learned trial Judge after considering the evidence adduced on the side of the petitioner and the respondents, decreed the suit. Hence, the petitioner filed the Appeal Suit in A.S.(MD).SR.No.3732 of 2016 before this Court and thereafter, there was a compromise was agreed upon between the petitioner and the respondent and the respondent agreed to receive the amount and therefore, he did not proceed the above appeal further. But, subsequently, plaintiff was not inclined to receive the amount and hence, he re-presented the appeal papers with a delay of 3208 days.



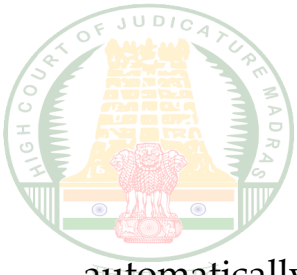
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4.The learned counsel for the petitioner reiterated the said submission and the respondent was served with notice and there was no representation.

5.This Court perused the records and the affidavit filed by the petitioner to condone the delay of 3208 days in re-presenting the appeal papers and this Court finds no reason to reject the claim of the petitioner. More over, the respondent has not appeared and refuted the said reason. The petitioner specifically submitted that the respondent has not initiated any execution proceeding and considering the above circumstances, this Court is inclined to allow the application by accepting the reason stated in paragraph Nos.7 and 8 of the affidavit on payment of costs and to give opportunity to the petitioner to contest the case on merits in the interest of justice.

6.Accordingly, this petition stands allowed on payment of cost. The petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non-refundable to the credit of the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Account No: 30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832, within a period of ten days from the date of receipt of a copy of this order. It is made clear that if the petitioner fails to pay the aforesaid amount within the time stipulated, the order passed by this Court shall



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automatically stand revoked without any further reference to this Court.

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Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TM
To
The Head Master,
Sethupathi Government Higher Secondary School,
Tiruchuli, Virudhunagar District.

ORDER
IN
CMP(MD) No.2189 of 2025
in AS(MD) SR NO. 3732 OF 2016
Date :25/06/2025

HPS/28.07.2025 /4P/2C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023