



**C.R.P(MD)No.971 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 28.01.2025**

**Pronounced on : 17.02.2025**

**CORAM :**

**THE HONOURABLE Mr. JUSTICE G.ILANGO VAN**

**C.R.P(MD)No.971 of 2024**

P.Kannan

... Petitioner / Petitioner / Plaintiff

Vs

1.P.Boominathan

2.The District Collector,  
at District Collector's Office,  
Madurai.

... Respondents / Respondents / Defendants

(R1 is given up since they remained  
exparte before the lower Court)

PRAYER : This Civil Revision petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order dated 06.08.2022 passed in I.A.No.264 of 2021 in O.S.No.970 of 2013 on the file of the IIIrd Additional Subordinate Court, Madurai.

For Petitioner : Mr.R.J.Karthick

For R1 : Mr.A.Arun Prasad

For R2 : Mr.N.Ramesh Arumugam



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**ORDER**

This Civil Revision petition is filed to set aside the fair and decreetal order dated 06.08.2022 passed in I.A.No.264 of 2021 in O.S.No.970 of 2013 on the file of the IIIrd Additional Subordinate Court, Madurai.

2. The suit in O.S.No.970 of 2013 was filed by this revision petitioner, seeking the relief of recovery of money on the basis of the pro-note. The amount was stated to be Rs.7 Lakhs. Since the revision petitioner was unable to pay the Court fee, he filed the suit as indigent person in Pauper O.P.No.5 of 2012. Application was allowed and he was permitted to file a suit as indigent person. Finally, the suit was decreed as prayed for with costs by judgment and decree dated 26.08.2016. The respondent herein remained ex parte. While passing the judgment, it made a condition upon the revision petitioner to pay the Court fee within a month and after payment of Court fee only decree can be drafted. Within the time stipulated by the trial Court, the revision petitioner did not pay the Court fee and after lapse of 4 years 9 months, he filed petition



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in I.A.No.264 of 2021, seeking permission of the Court to pay the Court fee stating that the result of the suit and as well as the condition imposed upon him to pay the amount is not informed by his advocate in time. Apart from that his financial position was not good for payment of Court fee. No counter was filed by the respondent. The trial Court, after hearing the petitioner, finding that there is enormous delay and the reason assigned was also not proper, dismissed it. Apart from that it is also stated that the reasons mentioned by the revision petitioner is also not proper. The number of days of delay is also not properly calculated. On those grounds, it dismissed the petition against which this Civil Revision Petition is preferred.

3. Heard the revision petitioner.

4. Whatever may be the delay, it is the duty of the Court to recover proper Court fee from the parties concerned. More particularly when indigent OP was allowed and payment of Court fee was ordered and if not complied, the revenue authorities may take the process under the provisions of Revenue Recovery Act. It appears that so far, no recovery



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action has been initiated against the revision petitioner by the revenue authorities. But when the revision petitioner come forward to pay the Court fee, it ought to have been accepted by the trial Court without taking into technicalities. Payment of Court fee as mentioned above is between the parties and Government. For which no exception can be taken. Merely because there is a delay and merely because proper provision is not mentioned, the right of the State Government to collect the Court fee, cannot and should not be denied by dismissing the petition. The trial Court has committed grave error in its duty to collect the Court fee. By the dismissal, the ultimate sufferer is the State Government. So the approach made by the trial Court is *per se* illegal and improper.

5. There is no prohibition to collect the Court fee at any point of time. There is no question of limitation. Eventhough in the judgment, one month time was granted to the revision petitioner to pay the Court fee, there is no bar for collecting the same after expiry of one month period by invoking the inherent power of the Court.



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6. Even the Judgment Debtor cannot make any objection stating that their right are defeated. But their right is not going to be defeated because the delay is well within the time of limitation for filing the execution proceedings. For all those reasons, the revision petitioner was directed to pay the Court fee by order dated 05.12.2024. He complied the condition. A report is also received from the concerned trial Court.

7. Accordingly, this Civil Revision Petition stands allowed and the order dated 06.08.2022 passed in I.A.No.264 of 2021 in O.S.No.970 of 2013 by the IIIrd Additional Subordinate Court, Madurai, is set aside. No costs.

**17-02-2025**

NCC : Yes / No  
Internet : Yes / No  
Index : Yes / No

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**G.ILANGO VAN, J.**

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To

- 1.The IIIrd Additional Subordinate Court, Madurai.
- 2.The District Collector,  
at District Collector's Office,  
Madurai.
- 3.The Section Officer, VR Section,  
Madurai Bench of Madras High Court, Madurai.

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