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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.773 of 2025

and

C.M.P(MD)No.4130 of 2025

Abdul Muthaleef Hameed

...Petitioner/Petitioner/Defendant

Vs

The Branch Manager,
Bharath State Bank of India,
Kodaikkanal Branch,
Anna Salai, Kodaikkanal,
Dindigul District.

....Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in I.A.No.2 of 2024, in O.S.No.467 of 2019, on the file of the Principal Sub Court, Palani (Camp Court at Kodaikanal) dated 20-11-2024.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.Anwar Sameem

* * * * *



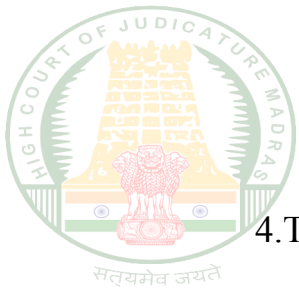
ORDER

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The judgment debtor in O.S.No.467 of 2019, on the file of the Principal Sub Court, Palani (Camp Court at Kodaikanal), has filed the present revision petition challenging the dismissal of his application to condone the delay of 610 days in filing an application under Order 9 Rule 13 of C.P.C.

2. A perusal of the records reveal that the suit has been filed by the respondent Bank for recovery of money based on a mortgage deed. The defendant was set ex-parte and a preliminary decree came to be passed on 29.09.2022. Final decree was passed on 01.04.2024. Thereafter, the defendant has filed I.A.No.2 of 2024, dated 11.07.2024, to condone the delay in setting aside the preliminary decree. In the mean time, the decree holder has filed E.P.No.43 of 2024, to bring the property for sale.

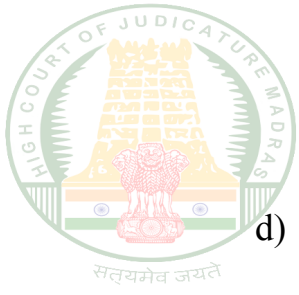
3.A perusal of the affidavit filed in support of the condone delay application reveals that the petitioner has contended that due to jaundice, he was taking native treatment in Kerala. Such a reason has been rightly disbelieved by the trial Court. In such circumstances, this Court is not inclined to interfere in the order of dismissal passed by the trial Court.



4.The learned Counsel appearing for the revision petitioner, on instructions, has submitted that his client would comply with the decree and repay the decree amount in installments and he has sought for 12 months time to deposit the decree amount before the Court by way of installments. However, the learned Counsel appearing for the respondent Bank has submitted that installments may not exceed a period of 6 months. The learned Counsel appearing for the respondent Bank has further submitted that as on today, the petitioner has to pay a sum of Rs.13,14,132/-. Considering the fact that the defendant has already deposited a sum of Rs.3,00,000/-, the due as on today is Rs.10,14,132/-.

5.Considering the submissions made on either side, this Court is inclined to pass the following orders:-

- a) a sum of Rs.3,00,000/-(Rupees Three Lakhs only) that was deposited by the revision petitioner shall be withdrawn by the respondent Bank;
- b) the petitioner/judgment debtor shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) every month starting from June 2025 in equated monthly installments. The last installment will be in March 2026.
- c) as and when, it is deposited by the judgment debtor, the Bank will be at liberty to withdraw the said amount;



d) in case of any one default, the respondent Bank is at liberty to prosecute the execution proceedings;

e) if the petitioner is regularly paying the monthly installments, the execution proceedings shall be kept in abeyance.

6. With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

24.04.2025

Internet: Yes/No
Index: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The learned Principal Sub Judge,
Palani (Camp Court at Kodaikanal).

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(NPD)(MD)No.773 of 2025

24.04.2025