



C.R.P.(MD)No.1094 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.1094 of 2022
and C.M.P.(MD).No.4364 of 2022

Sahabudeen ... Petitioner/Petitioner/Defendant

Vs.

Sakila Banu ... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order made in I.A.No.795 of 2019 in O.S.No.326 of 2011 on the file of the Sub Court, Palani, dated 18.02.2020.

For Petitioner : Mr.SP.Vijay Nivas

For Respondent : Mr.D.Selvanayagam

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order made in I.A.No.795 of 2019 in O.S.No.326 of 2011 on the file of the Sub Court, Palani, dated 18.02.2020.



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2.The facts in brief:

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Suit in O.S.No.326 of 2011 was filed seeking order of eviction and recovery of vacant possession, by the respondent against the revision petitioner. The revision petitioner appeared before the trial Court and filed the written statement. But, between April and June 2016 he suffered Typhoid fever. He was shifted to his sister's house at Tiruppur. So he was unable to contact his Advocate to contest the matter. Because of non appearance exparte decree was granted. To set aside the exparte decree he filed I.A.No.795 of 2019, to condone the delay of 1275 days, stating the above said reason.

3.That was objected by the respondent herein stating that originally on 23.07.2013, exparte decree was granted. That was set aside on the petition filed by the revision petitioner. The case was posted for cross examination of the respondent. Again the revision petitioner did not appear and so exparte decree was passed on 26.04.2016. To execute the decree, the Execution Petition was filed, in which, the revision petitioner appeared on 05.10.2017. Thereafter, also he did not file the present petition immediately. But filed it only on 18.11.2019.



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4.Considering the above said ground and the conduct on the part of the revision petitioner, the trial court dismissed the petition. Against which, this revision petition is preferred.

5.Heard both sides.

6.The dates and events mentioned by the respondent in the counter statement as endorsed by the trial Court shows that the revision petitioner failed not once, but twice before the trial Court. Even after appearing in execution petition, delayed the matter and did not file the petition immediately. The reason assigned by him is that he suffered from Typhoid fever and shifted his residence to his sister's house. Even if we admit that he suffered Typoid, it will not last long for about two years; Since he appeared on 05.10.2017 in E.P.No.120 of 2016 through his Advocate. But the present petition was filed only on 18.11.2019. So it appears that no genuine reason is assigned by the revision petitioner. So the order passed by the trial Court absolutely legal and requires no interference.



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7. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.01.2025

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

1. The Subordinate Judge, Palani.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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