



C.R..P.(NPD)(MD).No.644 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.644 of 2025

and

C.M.P(MD)No.3441 of 2025

J.Kasthuri

... Petitioner/Petitioner
Plaintiff

Vs.

K.Soundirapandi

...Respondent/Respondent/
Defendant

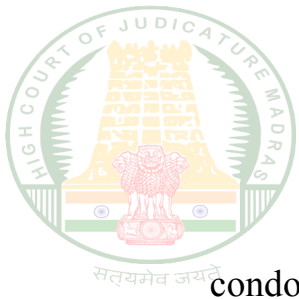
PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to set aside the fair order and decretal order passed in I.A.No.2 of 2022 in O.S.No. 382 of 2018, dated 23.09.2022 on the file of the Additional Subordinate Judge, Dindigul, and allow the Civil Revision Petition.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.K.Hemakarhikeyan

ORDER

The plaintiff in O.S.No.382 of 2018, on the file of the Additional Sub Court, Dindigul, has filed the present Civil Revision Petition challenging the



C.R..P.(NPD)(MD).No.644 of 2025

WEB COPY

condonation of delay of 540 days in filing an application to set aside the *ex parte* decree.

2. A perusal of the records reveal that the above suit has been filed for the relief of specific performance or in the alternative for recovery of the advance amount. The defendant was set *ex parte*, and an *ex parte* decree came to be passed on 30.01.2020. The plaintiff has filed E.P.No.24 of 2021, for execution of the sale deed by the Court. In such circumstances, the defendant has filed I.A.No.2 of 2022, on 26.07.2021 seeking to condone the delay of 540 days in filing an application under Order 9 Rule 13 of C.P.C. The trial Court after considering the reasons assigned for the delay was pleased to condone the delay. Challenging the same, the present Civil Revision Petition has been filed by the plaintiff.

3. According to the learned counsel appearing for the revision petitioner, no legally acceptable reason has been assigned by the defendant for condoning the huge delay of 540 days. He further contended that only after receipt of notice in the execution proceedings, the present application to condone the delay has been filed.



C.R..P.(NPD)(MD).No.644 of 2025

WEB COPY

4. Per contra, the learned counsel appearing for the respondent herein had contended that the defendant was working as a Coolie in Kerala and therefore, he was not in a position to contact his counsel and give instructions to file a written statement in time. However, along with Order 9 Rule 13 of C.P.C., application, written statement has been filed by the defendant. In such circumstances, the trial Court was pleased to condone the delay.

5. Heard both sides and perused the material records.

6. The defendant, who has suffered an *ex parte* decree has filed an application to condone the delay of 540 days along with written statement. The trial Court has exercised its jurisdiction and condoned the delay.

7. Considering the fact that the suit is for specific performance, this Court is not inclined to entertain in the present Civil Revision Petition. Considering the fact that the suit is of the year 2018, this Court directs the trial Court to dispose of the suit in O.S.No.382 of 2018 on or before **31.10.2025**.



C.R..P.(NPD)(MD).No.644 of 2025

WEB COPY

8. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

12.03.2025

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

1. The Additional Subordinate Judge,
Dindigul.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(NPD)(MD).No.644 of 2025

R.VIJAYAKUMAR,J.

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C.R.P(NPD)(MD)No.644 of 2025

12.03.2025