



C.R.P.(NPD)(MD).No.1429 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1429 of 2025

and

C.M.P.(MD)No.7319 of 2025

Chandrasekar

... Petitioner

Vs.

Paulraj

... Respondent

PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 01.02.2025 made in I.A.No.1 of 2024 in O.S.No.50 of 2019 on the file of the Sub Court, Padmanabhapuram.

For Petitioner : Mr.G.Sridharan

For Respondents : Mr.P.T.Ramesh Raja

ORDER

This Civil Revision Petition is filed challenging the order dated 01.02.2025 in I.A.No.1 of 2024 in O.S.No.50 of 2019 on the file of the Sub Court, Padmanabhapuram.



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2.The petitioner herein is the defendant in O.S.No.50 of 2019 filed for specific performance and for consequential relief by respondent. The allegation made as against the petitioner is that the petitioner entered into a sale agreement to sell the suit schedule property to the tune of Rs.4 lakhs and received a sum of Rs.3 lakhs as advance. Thereafter, the petitioner failed to execute the sale deed. The said suit was decreed *ex-parte*. After receiving notice in the execution petition, the petitioner came to know about the *ex-parte* decree passed as against her. Immediately, the petitioner filed the set aside the *ex-parte* decree application with the delay 664 days. The said application was dismissed. Challenging the same, the petitioner has filed this Civil Revision Petition.

3.The learned Counsel for the petitioner submits that the due to some health reasons, the petitioner was not able to appear before the civil Court on the date of hearing of the petitioner. Thereby, the petitioner was set *ex-parte*. Immediately after coming know about the *ex-parte* decree, the petitioner filed an application to set aside the *ex-parte* decree with the delay of 664 days. valuable right of the petitioner to defend his case cannot be taken away by an *ex-parte* decree. Hence, the petitioner seeks an opportunity to conduct his



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case and he is also ready to pay the costs as fixed by this Court to the plaintiff.

4.Per contra, the learned counsel for the respondent submits that the suit was filed in the year 2019. *Ex-parte* decree was passed in the year 2022. However, the petitioner filed an application to set aside the said *ex-parte* decree only in the year 2024 with the delay of two years. The trial Court has rightly dismissed the application of the petitioner and the same need not interfered.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. Admittedly, the suit was filed in the year 2019 and *ex-parte* order was granted in the year 2022. It is also equally undisputed that an application to set aside the *ex-parte* decree filed with a delay of 664 days was dismissed. Admittedly, the suit was decreed *ex-parte*. In any event, an *ex-parte* decree cannot be allowed to continue, since if the *ex-parte* decree is sustained, it would cause serious prejudice to the petitioner.



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7.Considering the nature of delay, the petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent/plaintiff and produce a proof for such payment before the trial Court within a period of two weeks from the date of receipt of a copy of this order. On such receipt, the trial Court is directed to restore the suit on file and decide the same on merits and in accordance with law after providing opportunity to the parties concerned. The petitioner is also directed to cooperate with the trial proceedings. It is made clear that if the trial Court feels that the petitioner is not extending his cooperation for the trial proceedings, the trial Court shall draw an adverse inference as against the petitioner and proceed with the trial proceedings. Considering the fact that the suit is of the year 2019, the trial Court is directed to dispose of the suit within a period of six months from the date on which the suit is restored on file.

9.With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.08.2025

Internet : Yes / No
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To

1. The Sub Court, Padmanabhapuram.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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