



CRP(MD). No.1987 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRP (MD). No.1987 of 2025

Elango

... Petitioner

v.

1. Mythili Kanagavel

2. Repco Home Finance Ltd.,,
Tirunelveli Rep by its Branch Manager,
Tirunelveli..

... Respondents

PRAYER :- Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the docket order made in unnumbered I.A.No. of 2025 in O.S.No.71/2014 dated 22.04.2025 on the file of the Sub Court, Valliyoor.

For Petitioner : Mr.S.Kumar

ORDER

The Civil Revision Petition is filed against the docket order dated 22.04.2025 made in unnumbered IA No. .. of 2025 in OS No.71/2014 on the file of the Sub Court, Valliyoor.



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2. The petitioner is the first defendant in OS No.71/2014. The suit was filed for recovery of money, for permanent injunction and for return of documents. The petitioner/1st defendant and the 2nd defendant were set exparte prior to the decree dated 18.01.2016, ie., on 18.12.2015. Thereafter, the suit was proceeded against the third defendant and the said suit came to be decreed on 18.01.2016 against the 1st defendant and it was dismissed against the defendants 2 and 3. On the basis of the decree, the plaintiff filed execution petition. However, the petitioner herein has filed an application to set aside the decree dated 18.01.2016. The said application was returned. Challenging the said return, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner has neither appeared before the Court nor contested the suit, he was set exparte. However, on the basis of the decree granted against the petitioner, now the plaintiff proceeded with the execution proceedings in the year 2024 and when the application is presented to set aside the exparte decree, the trial Court returned the application on the ground, it is



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not an ex parte decree and it is a contested decree. The learned counsel would submit that unless the ex parte decree is set aside in the manner known to law, it will cause prejudice to the petitioner.

4. Since no adverse orders are going to be passed against the respondents, notice to the respondents is dispensed with. I have considered the submissions and perused the materials available on record.

5. It is to be noted that the petitioner is the first defendant and the suit is filed for recovery of money and other reliefs. The first and second defendants were set ex parte as early as on 18.12.2015 and the suit was proceeded against the third defendant. As such it was decreed against the 1st defendant/petitioner herein and it was dismissed against the 2nd and 3rd defendants on 18.01.2016. Unless the petitioner has challenged the original ex parte order dated 18.12.2015, the petitioner is not entitled to challenge the contested decree dated 18.01.2016. Therefore, the trial Court rightly returned the application for setting aside the decree dated 18.01.2016. Hence, no interference is warranted to such return made.



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Accordingly, the Civil Revision Petition is dismissed. However, the petitioner is at liberty to challenge the decree/exparte order in the manner known to law. No costs. Consequently connected Miscellaneous Petition is closed.

25.07.2025

NCC : Yes/No
Index : Yes/No
RR
TO

- 1.The Sub Court, Valliyoor.
- 2.VR Section
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1987 of 2025**

Date : 25/07/2025