



CRP(MD). No.2338 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 22/08/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.2338 of 2025
and CMP(MD) No.14031 of 2025**

R.Senthilkumar

... Petitioner

Vs

K.Ramasamy

... Respondent

PRAYER :-Civil Revision Petition filed under section 115 of Civil Procedure Code, to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in O.S.No.139 of 2018 by the Principal District Judge, Dindigul dated 23.04.2025.

For Petitioner : Mr.M.Rajarajan

For Respondent : Mr.S.C.Herold Singh

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 23.04.2025 passed in I.A.No.1 of 2022 in O.S.No.139 of 2018 by the Principal District Judge, Dindigul.



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2. The petitioner is the defendant in OS No.139/2018, which was filed for recovery of money to the tune of Rs.18 lakhs with interest. The said suit was decreed exparte on 22.09.2019. Pursuant to the said decree, the respondent/plaintiff filed execution petition in EP No.184/2019, in which, the petitioner herein filed EA No.1/2023 for reduction of the upset price. Accordingly upset price was reduced from Rs.1 crore to Rs.75 lakhs. When the very same petitioner filed CRP(MD) No.2200 of 2025 against the order made in EA No.1/2023, this Court, vide order dated 08.08.2025, has stayed the order in EA No.1 of 2023 and directed the trial Court to proceed with the matter, if the value of the subject property is fixed as Rs.1 Crore. For the sake of clarity, the said order is extracted as under:

“This Civil Revision Petition is filed challenging the order passed in E.A.No.1 of 2023 in E.P.No.184 of 2019 in O.S.No.139 of 2018 on the file of the Principal District Court, Dindigul, dated 26.06.2025.

2.The learned counsel for the petitioner submitted that the petitioner is a judgment debtor in the money suit filed by the respondent/plaintiff in O.S.No.139 of 2018. The said decree has become final and the petitioner's two properties were attached in the execution proceedings.



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3. The petitioner claims that the decree amount is Rs.27 lakhs. Even as on date, the total outstanding amount comes around only Rs.50 lakhs. For the said outstanding, the property of the petitioner worth about Rs.1 Crore was brought down to Rs.75 lakhs vide order dated 26.06.2025. Hence, the petitioner has filed this petition.

4.Considering the fact that the petitioner has made out a prima facie case, there shall be an order of interim stay. However, the trial Court is directed to proceed with the matter, if the value of the subject property is fixed as Rs.1 Crore.

5.List on 18.08.2025”.

While so, the petitioner herein filed IA No.1 of 2022 to set aside the *exparte* order with a delay condonation petition to condone the delay of 1308 days in filing the petition to set aside the *exparte* decree and the said petition came to be dismissed. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that already the property worth about Rs.1 crore was attached in the execution proceedings and the same is confirmed in the suit. However, a direction was issued by this Court to restore and dispose the suit within a



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reasonable time. Therefore, the learned counsel prays for appropriate direction.

4. The learned counsel for the respondent, on the other hand, vehemently contended that the suit was filed in the year 2012 and decreed on 22.02.2019 and without proper explanation, the petitioner/defendant filed a petition to condone the delay in setting aside the exparte decree in IA No.1 of 2022, however, prior to the said filing of the petition, execution proceeding was effected in which, the petitioner/defendant contested and at the time of sale, for fixing the upset price, he filed EA No.1 of 2023 and attachment was also confirmed. Therefore, the learned counsel prays for dismissal.

5. Considering the fact that based on the exparte decree, execution proceedings was proceeded, which is not sustainable and the petitioner himself attached the property, which was attached in the attachment proceedings and the suit was decreed exparte in the year 2019 and hence, there is no prejudice caused to the respondent/plaintiff in restoring the suit. It is also to be seen that in CRP(MD) No.2200 of 2025, since stay



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was granted and a direction was also issued to dispose the suit and since the present Civil Revision Petition is arising out of the very same suit and since the petition to condone the delay in setting aside the exparte decree was dismissed, in order to give an opportunity to the petitioner/defendant, the order passed by the trial Court is liable to be set aside.

6. In the result, the Civil Revision Petition is allowed and the order passed by the trial Court in IA No.1 of 2022 is hereby set aside and the trial Court is directed to allow the application for condoning the delay and restore the suit to file by closing the execution proceedings and dispose the suit within a period of six months from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

22.08.2025

NCC : Yes/No
Index : Yes/No
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1. The Principal District Judge, Dindigul

3. VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.2338 of 2025**

Date : 22/08/2025