



C.R.P.(NPD)(MD)No.1809 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1809 of 2025

and

C.M.P.(MD) No.9907 of 2025

1. M/s. Barter Retail,
A Partnership Firm,
Represented by its Partner namely
Vijayalakshmi.
2. M.Vijayalakshmi,
Partner in M/s.Barter Retail,
W/o. Madhusudhanan,
D.No.95/29, United Shelters,
No.53, II Floor, Kumaran Colony,
Old Mandabam Road,
Landmark, Opp, West Hills Apartment,
Chennai – 600 033.
3. Kavitha,
Partner in M/s.Barter Retail,
W/o.Karthi Padmaraman,
No.5/1289, 4th Street,
Gandhi Nagar 2nd Street,
Udumalapet – 642 126.

... Revision Petitioners/
Petitioners/Defendants

Vs.

M/s.Raj Brothers,
Represented by its Proprietor namely,
A.Tamilselvi,
W/o. Anbalagan,
No.75, South Veli Street,
Madurai – 625 001.

... Respondent/Respondent/
Plaintiff



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned order in I.A.No.02 of 2024 dated 15.04.2025 in C.O.S.No.35 of 2022 passed by the Principal District Court, Madurai.

For Petitioners : Mr.M.Dineshkaran

For Respondent : Mr.K.P.Thiyagarajan

ORDER

This Civil Revision Petition is filed to set aside the order made in I.A.No. 02 of 2024 dated 15.04.2025 in C.O.S.No.35 of 2022 passed by the Principal District Court, Madurai.

2.The respondent filed a suit in COS No.35 of 2022 on the file of the Principal District Court, Madurai for recovery of money to the tune of Rs.10,67,437/-. The petitioners are defendants in that suit. The said suit was decreed *ex-parte* on 28.04.2023 on the ground that the defendants failed to file written statement within the limited period. Seeking to set aside the *ex-parte* decree, the petitioner filed an interlocutory application in I.A.No.2 of 2024 under Order IX Rule 7 and Section 151 of CPC. The said petition was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submits that though there is an appeal remedy available for the petitioner before the lower Appellate Court

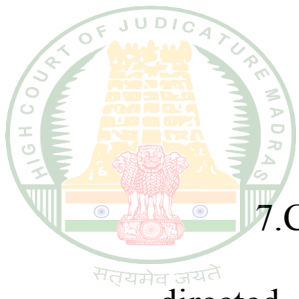


under Order XLIII Rule 1 of CPC as against the order of dismissal of the application seeking to set aside the *ex-parte* decree, the petitioner is ready to pay the reasonable costs to the respondent for the inconvenience caused to him and this Court may direct the trial Court to restore the suit and dispose of the same on merits and in accordance with law.

4.The learned counsel for the respondent submits that there is no proper reason for not filing the written statement in time. In the absence of any reasons, the trial Court has rightly dismissed the petition and the same need not be 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 filed by the respondent/plaintiff as against the petitioner was decreed *ex-parte*. It is also equally undisputed that the application filed to set aside the *ex-parte* decree was also 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 facts and circumstances of the case, the petitioners are directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondent/plaintiff and produce a proof for such payment before the trial Court along with the written statement within a period of two weeks from the date of receipt of a copy of this order. On such receipt of proof of payment and the written statement, the trial Court is directed to restore the suit on file and decide the same on merits and in accordance with law after providing sufficient opportunities to the parties concerned. The petitioner is also directed to cooperate with the trial proceedings. Considering the fact that the suit is of the year 2022, the trial Court is directed to dispose of the suits within a period of one year from the date on which the suit is restored on file.

8.With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

14.07.2025

Index : Yes/No
Internet : Yes / No
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To

- 1.The Principal District Judge,
Madurai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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