



C.R.P.(MD)No.1894 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1894 of 2025

and

C.M.P.(MD)No.10572 of 2025

Ashokkumar

...Petitioner

Vs.

P.Selvam

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, 1908, praying to call for the records and set aside the judgement and decree dated 26.03.2025 in C.M.A.No.24 of 2022 in I.A.No.06 of 2018 in O.S.No.266 of 2009 on the file of the I Additional District Judge (PCR), Tiruchirappalli.

For Petitioner : Mr.M.Suresh



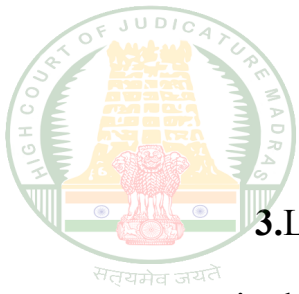
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ORDER

This petition has been filed praying to set aside the judgement and decree dated 26.03.2025 in C.M.A.No.24 of 2022 in I.A.No.06 of 2018 in O.S.No.266 of 2009, on the file of the I Additional District Judge (PCR), Tiruchirappalli.

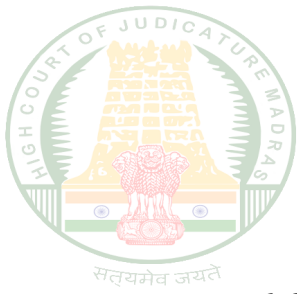
2.Learned Counsel for the petitioner would submit that the petitioner is the defendant in O.S.No.266 of 2009, on the file of the I Additional District Judge, Tiruchirappalli. For non-appearance of the petitioner / defendant, the said suit was decreed ex-parte in favour of the respondent / plaintiff on 23.02.2012. The petitioner filed set aside ex-parte decree petition on 08.01.2013, however, the same was numbered as I.A.No.06 of 2018, due to the fault of the lower Court and the said petition came to be dismissed on 21.10.2021 on the ground that without filing condone delay petition, filing set aside petition beyond the period of thirty days is not maintainable. Aggrieved by the same, the petitioner preferred an appeal before the lower appellate Court in C.M.A.No.24 of 2022, on the file of the I Additional District Judge (PCR), Tiruchirappalli and the same was dismissed on 26.03.2025. Challenging the same, the present Civil Revision Petition came to be filed.



3.Learned Counsel for the petitioner would submit that this Court may permit the petitioner to file condone delay petition to set aside the ex-parte decree before the trial Court once again and the trial Court may be directed to exclude the period from 08.01.2013 to 26.03.2025, since the I.A. for setting aside the ex-parte order and appeal were pending.

4.Since no adverse orders are passed against the respondent, notice to the respondent is dispensed with and this Civil Revision Petition is being disposed of at the admission stage itself.

5.Admittedly, the petitioner is the defendant in the suit filed by the respondent and an ex-parte decree came to be passed against the petitioner. Though it is alleged that the petitioner filed a set-aside ex-parte petition on 08.01.2013, the same came to be numbered only in the year 2018 and subsequently, the said petition also came to be dismissed. As against the same, the petitioner preferred an appeal in C.M.A.No.24 of 2022 and the said appeal also came to be dismissed. It is claimed by the petitioner that for no fault of him, the set-aside petition came to be numbered belatedly ie., only in the year 2018 and therefore, he seeks for one more opportunity to file set aside petition along with condone delay petition before the trial Court.



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6.Considering the facts and circumstances of the case, the petitioner is permitted to file condone delay petition to set aside the ex-parte decree before the trial Court. The trial Court is directed to exclude the period from 08.01.2013 to 26.03.2025 for the purpose of limitation, since the I.A. for setting aside the ex-parte order and appeal were pending at the relevant period and the trial Court is directed to pass appropriate orders.

7.Accordingly, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

11.07.2025

Internet:Yes/No

Index:Yes/No

MR



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To

1. I Additional District Judge (PCR),
Tiruchirappalli.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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