



C.R.P(MD)No.304 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.02.2025**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.304 of 2025

and

C.M.P(MD)No.1778 of 2025

C.Jothi

... Petitioner/Petitioner/
Defendant

Vs.

S.Eswaran

... Respondent/ Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order, dated 14.12.2023 passed by the Sub-Court, Ottanchathiram made in I.A.No.937 of 2022 in O.S.No.379 of 2017.

For Petitioner : Mr.S.Karthik

For Respondent : Mr.H.Lakshmi Shankar

ORDER

The defendant in O.S.No.379 of 2017 on the file of Sub Court, Ottanchathiram is the revision petitioner herein.



C.R.P(MD)No.304 of 2025

WEB COPY

2. The respondent herein as plaintiff had filed the above said suit for recovery of money based upon a pro-note. The defendant had entered appearance and sought time on five occasions between 03.11.2017 to 03.07.2018 for filing written statement. Since no written statement was filed, the defendant was set ex parte on 03.07.2018 and an ex parte decree came to be passed on 08.01.2019.

3. The decree holder had filed E.P.No.164 of 2022 and after receipt of notice in the said execution petition, the defendant had filed I.A.No.937 of 2022 seeking to condone the delay of 1295 days in filing an application under Order IX Rule 13 to set aside the ex parte decree.

4. A perusal of the affidavit in the said application reveals that after receipt of suit summons, the defendant had enquired with the plaintiff and he had said that he would withdraw the suit and they could compromise the dispute. Believing the words of the plaintiff, the defendant had not attended the Court proceedings. This reason was



C.R.P(MD)No.304 of 2025

disbelieved by the trial Court and the delay application was dismissed.

Challenging the same, the present revision petition has been filed.

5. The learned counsel appearing for the petitioner submits that the revision petitioner is an employee of Tamil Nadu Electricity Board and the present execution petition has been filed seeking to arrest the judgment debtor. If a chance is given, he would contest the proceedings after depositing a part of the decree amount.

6. However, the learned counsel appearing for the respondent/decree holder had contended that the defendant after taking so much time before the trial Court has not chosen to file the written statement and even after an ex parte decree was passed, the defendant had not chosen to file an application in time to set aside the ex parte decree.

7. Heard the learned counsel on either side.



C.R.P(MD)No.304 of 2025

8. The dates and events narrated above will clearly indicate that the petitioner had appeared through his counsel after receipt of summons in the suit and had taken five times adjournment for filing written statement. The reasons assigned by the defendant for not attending the Court proceedings are not believable and the delay has also not been properly explained. In such circumstances, this Court does not find any illegality or infirmity in the order passed by the trial Court in dismissing an application to condone the huge delay of 1295 days in filing an application under Order IX Rule 13. There are no merits in the revision petition.

9. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

gbg

4/6



C.R.P(MD)No.304 of 2025

To

WEB COPY

1. The Sub-Court,
Ottanchathiram.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.304 of 2025

R.VIJAYAKUMAR ,J.

gbg

Order made in
C.R.P(MD)No.304 of 2025

06.02.2025