



C.R.P.(MD)No.2145 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2145 of 2025

and

C.M.P.(MD)No.12493 of 2025

Mr.Arockiyasamy

...Petitioner

Vs.

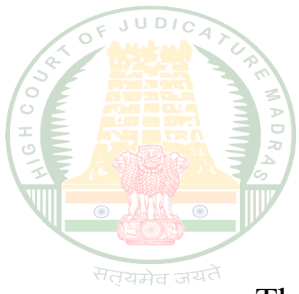
Ms.Mariyavin Selvi

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the entire records of the impugned proceedings in E.A.No. 46/2024 in E.P.No.103/2015 in O.S.No.85/2014 dated 20.06.2024 on the file of the learned Principal District Munsif Judge, Kumbakonam and its consequential proceedings and to set aside the same insofar as the petitioner is concerned.

For Petitioner : Mr.S.Surya

For Respondent : Mr.E.Marees Kumar



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ORDER

This petition has been filed seeking to set aside the order passed in E.A.No.46/2024 in E.P.No.103/2015 in O.S.No.85/2014 dated 20.06.2024 by the Principal District Munsif Court, Kumbakonam.

2. The learned counsel for the petitioner would submit that the respondent/plaintiff filed a suit in O.S.No.85 of 2014, on the file of the Principal District Munsif Court, Kumbakonam against the petitioner and another. The said suit was decreed ex-parte against the petitioner on 27.08.2014. After the ex-parte decree, the respondent filed an Execution Petition in E.P.No.103 of 2015 to execute the order passed in the suit. The said E.P.No.103 of 2015 was ordered ex-parte on the ground that counter not filed. When the Amena came to the spot for delivering the property in favour of the respondent/plaintiff, the petitioner came to know all those facts. Thereafter, he filed an application in I.A.No.738 of 2023 to condone the delay in filing the petition to set aside the ex-parte decree. Further, he filed an application in E.A.No.46 of 2024 seeking to set aside the ex-parte order dated 06.04.2016 passed in E.P.No.103/2015. The said application was dismissed on 20.06.2024 on the ground that the delay of 2846 days was not satisfactorily explained and found contradictions between the present affidavit and earlier affidavit filed in I.A.No.738 of 2023.

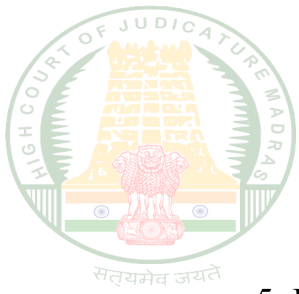


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3. The learned counsel appearing for the petitioner further submitted that as against the ex-parte decree, the petitioner already filed I.A.No.738 of 2023 for condoning the delay to set aside the ex-parte decree and the same is pending for enquiry. In the meanwhile, Execution Proceeding was ordered, which was not sustainable one and the petitioner is ready to pay the reasonable costs to the suffers made by the respondent/plaintiff. The respondent/plaintiff is none other than the sister-in-law of the petitioner. The petitioner suffered jaundice, the second defendant, who is the wife of the petitioner died and his son also attempted to commit suicide. In view of the continuous tragedy faced by the petitioner, he is not in a position to file an application in time. Without considering the reasons assigned by the petitioner, the trial Court has dismissed the application, which is not sustainable one and prays for allowing the Civil Revision Petition.

4. The learned counsel appearing for the respondent would submit that admittedly Execution Proceeding was passed on 20.06.2024, whereas, E.A., filed in the year 2024 there is no proper explanation for the delay in filing the E.A., thereby the trial Court has rightly dismissed the application, which need not be interfered with.



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5. Heard both sides and perused the records.

6. It is seen from the records that a suit in O.S.No.85 of 2014 has been filed by the respondent against the petitioner and another. The said suit was decreed ex-parte against the petitioner on 27.08.2014. After the ex-parte decree, the respondent filed an Execution Petition in E.P.No.103 of 2015 to execute the order passed in the suit. The said E.P.No.103 of 2015 was ordered ex-parte on the ground that counter not filed. When the Amena came to the spot for delivering the property in favour of the respondent/plaintiff, the petitioner came to know all those facts. Thereafter, he filed an application in I.A.No.738 of 2023 to condone the delay in filing the petition to set aside the ex-parte decree. Further, he filed an application in E.A.No.46 of 2024 seeking to set aside the ex-parte order dated 06.04.2016 passed in E.P.No.103/2015. The said application was dismissed on 20.06.2024 on the ground that the delay of 2846 days was not satisfactorily explained and found contradictions between the present affidavit and earlier affidavit filed in I.A.No.738 of 2023. The learned counsel appearing for the petitioner further submitted that as against the ex-parte decree, the petitioner already filed I.A.No.738 of 2023 for condoning the delay to set aside the ex-parte decree and the same is pending for enquiry and



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the petitioner is ready to pay the reasonable costs to the suffers made by the respondent/plaintiff. The respondent/plaintiff is none other than the sister-in-law of the petitioner.

7. Considering the above facts, this Court is inclined to allow the Civil Revision Petition on condition that the petitioner shall pay a costs of Rs. 25,000/- to the respondent/plaintiff.

8. Accordingly, the Civil Revision Petition is allowed and the order made in E.A.No.46 of 2024, dated 20.06.2024 is set aside. The petitioner shall pay a costs of Rs.25,000/- (Rupees Twenty Five Thousand only) directly to the respondent/plaintiff. On payment of costs, the trial Court is directed to restore the E.P.No.103 of 2015 and dispose the said E.P., after disposal of the I.A.No. 738 of 2023. The E.P., may be deferred till the disposal of the I.A.No.738 of 2023. If the cost is not paid by the petitioner to the respondent/plaintiff, the respondent/plaintiff shall proceed the execution proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Internet:Yes/No
Index:Yes/No
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05.08.2025



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To

- 1.The Principal District Munsif Court,
Kumbakonam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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