

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.P.(MD)No.12280 of 2025
and
C.R.P.(MD)No.SR 60793 of 2025

Samsath Begam

...Petitioner

Vs.

Sharban Beevi

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to call for the records relating to the common fair and decreetal order passed in I.A.No.71 of 2019 in A.S.No..... of 2019 dated 25.02.2020 on the file of the Principal District Court, Dindigul and set aside the same.

For Petitioner : Mr.P.Pagalavan

ORDER

This petition has been filed challenging the common fair and decreetal order passed in I.A.No.71 of 2019 in A.S.No..... of 2019 dated 25.02.2020 on the file of the Principal District Court, Dindigul.

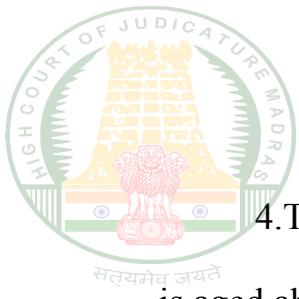
2.The learned counsel for the petitioner submitted that the petitioner is the plaintiff in O.S.No.396 of 2018 for specific performance as against the



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respondent/defendant. The suit was dismissed on 09.10.2018. As against which, the petitioner filed an appeal before the Lower Appellate Court and the appeal was filed with the delay of 115 days. The petition seeking to condone the delay was allowed on 11.02.2020 on condition to pay a sum of Rs.1,000/-. However, the costs was not paid by the petitioner within the time stipulated by the trial Court. Hence, the condone delay petition was dismissed for non compliance of the order of the trial Court on 25.02.2020. Thereafter, the petitioner filed another application in I.A.No.2 of 2024 to condone the delay of 1415 days in filing the appeal. The said petition was also dismissed on 24.03.2025. Aggrieved by the same, the present Civil Revision Petition is filed with the delay of 1168 days.

3.The learned counsel for the petitioner submits that the appeal was refused to be numbered for non-payment of the costs of Rs.1,000 imposed by the trial Court for condoning the delay in filing the appeal. The delay in paying the costs imposed by the trial Court was occurred only due to the lock down owing to Corona virus. If the said period is excluded, the period of limitation would be less than 1,000 days. However, the trial Court without considering the said issue, dismissed the petition and the same is not sustainable.

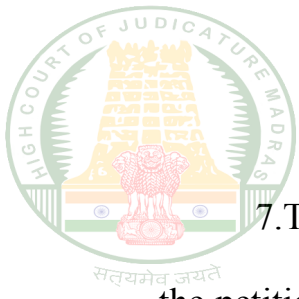


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4.The learned counsel for the petitioner further submits that the petitioner is aged about 56 years and she is suffering with her age old ailments. Hence, she was not able to file the appeal as well as the present Civil Revision Petition in time. Hence, he prayed for appropriate orders.

5.Since no adverse order is going to be passed, notice to the respondent is dispensed with.

6.The facts in the present case are not in dispute. Admittedly, the petitioner is the plaintiff in the suit for specific performance as against the respondent /defendant. The said suit was dismissed after contest on 09.10.2018. Aggrieved over the same, the petitioner preferred an appeal before the Lower Appellate Court with the delay of 115 days. The delay was condoned in I.A.No. 71 of 2019 by imposing costs of Rs.1,000/-. However, the said costs was not paid by the petitioner in time. Therefore, the appeal was dismissed on 25.02.2020. Thereafter, the petitioner filed another interlocutory application to set aside the order passed in I.A.No.71 of 2019 and the said petition was also dismissed by the trial Court. Thereafter, the delay of 1168 days is occurred in filing the present Civil Revision Petition.



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7.The petitioner claims that due to the lock down owing to Corona virus, the petitioner has not paid the costs in time and due to her health condition, the petitioner was not able to file the present Civil Revision Petition in time. The lock down period starts from March, 2020 onwards. However, the order to pay a sum of Rs.1,000/- was passed on 11.02.2020 itself and a full one month was available to the petitioner to pay the costs imposed by the trial Court. Further, the lock down period was subsisted only till June, 2020. Thereafter, the Court was resumed both in virtual mode and in physical mode. The application to condone the delay in filing the appeal was dismissed during March, 2020. However, the present revision petition is filed with the delay of 1,168 days, which is also not properly explained by the petitioner. The trial Court after appreciating all these issues has rightly rejected the claim of the petitioner and the same need not be interfered.

8.Accordingly, this Civil Miscellaneous Petition is dismissed. Consequently, this Civil Revision Petition is rejected in the SR stage itself. No costs.

31.07.2025

Internet:Yes/No
Index:Yes/No

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To

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



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M.DHANDAPANI, J.

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