



CRP(MD). No.3032 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 27/10/2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.3032 of 2025
and
CMP(MD)No.17143 of 2025

Ramesh

... Petitioner

Vs

Petchiyammal

... Respondent

PRAYER :-

Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the impugned order passed in I.A.No. 1 of 2024 in O.S.No. 353 of 2021 dated 25.06.2025 on the file of the Sub Court, Uthamapalayam.

For Petitioner : Ms.K.Porkodi
for M/s.Polex Legal Solutions,

ORDER

This Civil Revision Petition is filed to set aside the impugned order passed in I.A.No. 1 of 2024 in O.S.No. 353 of 2021 dated 25.06.2025 on the file of the Honourable Sub Court, Uthamapalayam.



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2. Learned counsel for the petitioner would submit that the respondent herein had filed a suit for specific performance in which he has failed to file a counter and thereafter he had been set *ex parte* and an *ex parte* judgment and decree was passed on 14.03.2022. The same was not informed to him by his counsel and only on receipt of a draft sale deed in the execution petition, he had the knowledge of the *ex parte* judgment and decree and immediately had contacted his counsel and taken out an application to set aside the *ex parte* decree. In that process, there had also occurred a delay of 632 days. He had also filed an application to condone the delay of 632 days. Without considering the hardship that would be caused to the petitioner upon the *ex parte* decree, the Court below had dismissed the interlocutory application, without taking a liberal approach that had been reiterated by this Court and the Hon'ble Apex Court. Hence he seeks indulgence with the order impugned in the Civil Revision Petition.

3. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.



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4. The petitioner had been set *ex parte* as early as on 14.03.2022, as he had failed to file a written statement and on the same day, an *ex parte* decree had come to be passed. The petitioner had taken out an application to condone the delay of 632 days in setting aside the *ex parte* decree. It is to be noted that the petitioner after notice in the execution petition had appeared before the execution Court as early as on 11.01.2023 and also on subsequent dates. Even in the execution petition, he seems to have not filed his counter and only on 05.04.2024, he had filed the application to condone the delay. No reasons have been attributed by the petitioner, as to how there has been a delay in filing the said application when he had knowledge of the *ex parte* decree even as early as in January, 2023, when he had appeared in the execution proceedings in which he had been served with notice.

5. Therefore, the Court is of the view that the petitioner is only attempting to protract the proceedings denying the decree holder from enjoying the fruits of the decree. The reasons attributed by the Court below and the impugned order in rejecting the petitioner's application are all well-founded which deserves no interference of this Court.



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6. For the aforesaid reasons, this Civil Revision Petition fails and accordingly, dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

27.10.2025

NCC : yes / no
Index : yes / no
Internet : yes / no

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To

1. The Subordinate Judge, Uthamapalayam.
2. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.KUMARESH BABU, J

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