



C.R.P(MD)No.2668 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2668 of 2024
and
C.M.P(MD)No.15269 of 2024

S.M.Anandakrishnan

... Petitioner/Petitioner/
1st Defendant

Vs.

C.Mehala

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside fair and decreetal order, dated 08.07.2024 passed by the Additional District Judge (Fast Track Court), Palani in I.A.No.27 of 2023 in O.S.No.102 of 2022 in so far directing the petitioner to deposit a sum of Rs.3,24,015/- before the Additional District Judge (Fast Track Court), Palani.

For Petitioner : Mr.T.Leninkumar

For Respondent : Mr.D.Venkatesh



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ORDER

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The defendant in O.S.No.102 of 2022 on the file of Additional District Court (Fast Track Court), Palani has filed the above revision petition challenging the order wherein a pre-condition has been imposed for condoning the delay of 71 days in setting aside the ex parte decree.

2. The respondent herein has filed the above said suit for recovery of a sum of Rs.12 Lakhs. Pending suit, the defendant was set ex parte. The defendant had filed I.A.No.27 of 2023 to condone the delay of 71 days in setting aside the ex parte decree. This application has been allowed by the trial Court with a condition to deposit 1/4th of the decree amount. This condition is under challenge in the present revision petition.

3. According to the learned counsel appearing for the revision petitioner, the defendant is a retired as Government servant and he is drawing only a sum of Rs.40,000/- as pension. In such circumstances, onerous condition cannot be imposed for condoning the delay of 71 days.



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4. Per contra, the learned counsel appearing for the plaintiff submitted that after execution of the suit pro-note, the defendant has gifted away the properties worth more than Rs.1 Crore and thereafter, has also filed insolvency proceedings. He further pointed out that in the insolvency proceedings, the debt due to the plaintiff is also mentioned. In such circumstances, the condition imposed by the trial Court cannot be found to be onerous.

5. Heard the learned counsel on either side and perused the material records.

6. The defendant has been set ex parte for the first time in the suit and the delay is only 71 days. Considering the above said facts, this Court is inclined to modify the order passed by the trial Court to the effect that the delay shall stand condoned on deposit of Rs.50,000/- (Rupees Fifty Thousand only) before the trial Court on or before **28.03.2025**. In case, if any default is committed, this order will stand recalled automatically. The trial Court is directed to dispose of the suit on or before **31.08.2025**.

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7. With the above said observations, this Civil Revision Petition

stands disposed of. No costs. Consequently, connected Civil

Miscellaneous Petition is closed.

27.02.2025

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

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To

- 1.The Additional District Judge
(Fast Track Court),
Palani.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.R.P(MD)No.2668 of 2024

27.02.2025