



CRP.(MD).No.3151 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CRP.(MD).No.3151 of 2024

and

C.M.P.(MD).No.18117 of 2024

against

I.A.No.4 of 2024

in

O.S.No.69 of 2019

K.Sakunthala

.. Petitioner/Petitioner/2nd Defendant

Vs.

K.K.Sathasivam

.. Respondent/Petitioner/Plaintiff

Prayer: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, 1908, to set aside the Fair and Decreetal order dated 04.06.2024 made in I.A.No.04/2024 in O.S.No.69/2019 on the file of the Principal District Court, Karur and allow the Civil Revision Petition.

For Petitioner : Mr.P.Rajagopalan
Advocate

For Respondent : Mr.I.Vel.Pradeep



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ORDER

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The present Civil Revision Petition has been filed by the Defendant in O.S.No.69 of 2019 on the file of the Principal District Court, Karur, challenging the onerous condition imposed upon him for condoning the delay in representation.

2. A perusal of the records reveal that the above Suit has been filed for the relief of recovery of money, based on pro-note. The Petitioner has suffered an *ex-parte* on 24.11.2022. The Petitioner had filed an interlocutory application on 22.12.2022 under Order 9 Rule 13 to set aside the *ex-parte* decree. When the Application was returned for rectifying certain defects, the same was represented after a delay of 188 days. The Petitioner has filed I.A.No.04/2024 to condone the delay in representing Order 9 Rule 13 Application.

3. The Learned Trial Judge while allowing the said application has imposed a condition that the Defendants should deposit 1/3rd of the decree amount and pay the Suit cost of Rs.41,985/-. Challenging the said



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onerous condition, the present Civil Revision Petition is filed.

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4. Pending the Civil Revision Petition, this Court has directed the Petitioner to deposit Rs.10,000/- instead of the suit cost of Rs.41,985/-. The Petitioner has complied with the same and filed a memo dated 31.01.2025.

5. Considering the fact that the Application under Order 9 Rule 13 of the Code has been filed in time and there is only a delay in representation, this Court finds that the condition imposed by the Trial Court to deposit 1/3rd of the decree amount is onerous in nature and therefore, it is liable to be set aside.

6. The Petitioner has already paid a sum of Rs.10,000/- as cost to the Respondent. Therefore, the impugned order in the Civil Revision Petition is hereby set aside and the delay in representation stands condoned. The Trial Court is directed to number the Order 9 Rule 13



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Law.

Application and dispose of the same on merits and in accordance with

7. With the above observations and directions, this Civil Revision
Petition stands allowed. No costs. Connected Civil Miscellaneous
Petition stands closed.

03.02.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

nst

To

1.The

Principal District Court,
Karur

2.The Section Officer,

VR Record Keeper,

Madurai Bench,

High Court of Madras.



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R.VIJAYAKUMAR,J.

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