



C.R..P.(PD)(MD).No.2566 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.2566 of 2022

and

C.M.P(MD) No.12607 of 2022

K.Shanthi

... Petitioner/Petitioner/
Defendant

Vs.

The Branch Manager,
Indian Overseas Bank,
Trichy Main Road,
Gandhigramam,
Karur District.

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the fair and decretal order dated 01.09.2022 passed in I.A.No. 1 of 2021 in O.S.No.383 of 2017 on the file of the Principal Sub-Court, Karur.

For Petitioner : Mr.V.Balaji

For Respondent : No appearance



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ORDER

The defendant in O.S.No.383 of 2017, on the file of the Principal Sub Court, Karur, has filed the present Civil Revision Petition challenging the order dated 01.09.2022, wherein, the trial Court has dismissed an application to condone the delay of 981 days in filing an application under Order IX Rule XIII of C.P.C.

2. The respondent Bank had filed the above said suit for recovery of sum of Rs.5,60,558/-, based upon the pronote, dated 29.05.2012. The revision petitioner/defendant has filed a written statement on 02.01.2018. Thereafter, the petitioner was set *ex parte* and an *ex parte* decree was passed on 16.07.2018. The Bank had filed E.P.No.89 of 2020. The petitioner had received notice in February 2021. Thereafter, the present application has been filed on 22.04.2021 seeking to condone the delay.

3. A perusal of the affidavit filed in Section 5 of Limitation Act application reveals that due to illness, the petitioner could not contact her counsel and hence there is a delay. However, no specific illness has been



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pointed out or any other reason has been assigned. The plaintiff/Bank had not appeared before the trial Court in condone delay application. However, the trial Court has found that the reasons are not satisfactorily and has proceeded to dismiss the application. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, only due to the illness, the application could not be filed in time. He further contended that the Bank had remained *ex-parte* before the trial Court and has not engaged any counsel even before this Court. Hence, he requested for taking lenient view in the revision petition which would enable the petitioner to contest the suit.

5. A perusal of the records reveal that the respondent/Bank has been served on 03.01.2023 and for the past two years they have not chosen to appear in person or engaged their counsel to defend the revision petition.

6. Though the reason assigned by the petitioner for the delay has not been substantiated by him taking lenient view, this Court is inclined to allow



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the Civil Revision Petition on condition that the revision petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) before the trial Court on or before **14.03.2025**. In case, the amount is deposited before the said date, this Civil Revision Petition will stand allowed. Otherwise, without any further reference to this Court, this Civil Revision Petition shall stand dismissed automatically. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

05.02.2025

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

1. The Principal Sub Court,
Karur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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