



C.R.P.(NPD)(MD).No.410 of 2024

WEB COPY

DATED: 12.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD).No.410 of 2024

State Bank of India
Main Branch
Raja Mirasudhar Hospital Road
Thanjavur

...Revision Petitioner/Petitioner
/Defendant

-VS-

1.Ing Vysya Bank Limited
Thanjavur Branch
Manojiappa Street
Thanjavur Town & Munsif

2.Anilkumar Soudry
S/o.Not Known
No.29, Bhairab Dutta Lane
Ghusari
Howrah 711 106

3.Pijay Singh
S/o.Not Known
No.26, Madhaw Babu Lane
Ghusari
Howrah 711 106

4.Dinabandu Varma
S/o.Not Known
No.26, Madhaw Babu Lane
Ghusari
Howrah 711 106



C.R.P.(NPD)(MD).No.410 of 2024

5.Sonu Kumar Roy
S/o.Not Known
No.16, ND Bose Road
PO Knnagar
Hooghly 712 235

...Respondents/Respondents/Defendants

(Respondents 2 to 5 given up)

PRAYER: The Civil Revision Petition has been filed under Section 115 of C.P.C, to call for the records in pertaining to the fair order and decreetal order in I.A.No.1 of 2023 in O.S.No.315 of 2010 dated 31.07.2023 on the file of the Additional Sub Court, Thanjavur and set aside the same by allowing the present civil revision petition.

For Petitioner : Mr.R.Ganesan

For Respondent : Mr.L.Shaji Chellan for R1

ORDER

The plaintiff in O.S.No.315 of 2010 on the file of the Additional Subordinate Court, Thanjavur is the revision petitioner.

2.The above said suit was filed for the relief of recovery of a sum of Rs.5,45,200/- along with interest at the rate of 18% from the date of plaint till realization. Due to non-appearance of the plaintiff, the suit was dismissed for default on 21.01.2015. An application under Section 5 of C.P.C was filed to condone the delay of 3 days in filing an application under Order 9 Rule 9 of C.P.C. The said application was filed on



C.R.P.(NPD)(MD).No.410 of 2024

20.02.2015. However, condone delay application was numbered only in February 2023.

3. When the application came up for hearing, the learned counsel for the first defendant namely Ing Vysya Bank Limited, Thanjavur Branch has not appeared. However, the trial Court found that though the application was filed with a delay of 3 days only, it was not represented for almost 8 years. Considering the delay in representing Section 5 application, the trial Court has dismissed the application in condoning the delay of 3 days in filing Order 9 Rule 9 application. Challenging the same, the plaintiff has filed the above civil revision petition.

4. According to the learned counsel for the revision petitioner, once an application to condone the delay in filing under Order 9 Rule 9 of C.P.C is numbered, the Court ought not to have considered the delay in representation. When the delay is just 3 days, the Court ought to have condoned the delay.

5. However, the learned counsel for the Kotak Mahindra Bank had contended that the first defendant Ing Vysya Bank got merged with Kotak Mahindra Bank on 01.04.2015. However, no steps were taken by the plaintiff Bank to amend the cause title so as to substitute Kotak



C.R.P.(NPD)(MD).No.410 of 2024

Mahindra Bnak in the place of Ing Vysya Bank. Hence, the learned counsel appearing for the Ing Vysya Bank has not appeared and the present order came to be passed.

6.This Court is of the opinion that the order passed in I.A.No. 1 of 2023 could be set aside and the matter may be remitted back to the file of the Additional Subordinate Court, Thanjavur so that the plaintiff can take steps to substitute Kotak Mahindra Bank in the place of Ing Vysya Bank and thereafter, the Court can proceeded to decide I.A.No.1 of 2023 on merits and in accordance with law.

7.In view of the above deliberations, the order impugned in the revision petition is set aside and the matter is remitted back to the file of Additional Subordinate Court, Thanjavur for fresh consideration.

8.This Civil Revision Petition stands disposed of with the above said observations. No costs.

12.02.2025

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

msa



C.R.P.(NPD)(MD).No.410 of 2024

WEB COPY

To

1.The Additional Subordinate Judge, Thanjavur

3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(NPD)(MD).No.410 of 2024

R.VIJAYAKUMAR, J

msa

C.R.P.(NPD)(MD).No.410 of 2024

12.02.2025