



C.R.P.(MD)No.3702 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3702 of 2025

and

C.M.P.(MD)No.19543 of 2025

K.Bhavani

... Petitioner

-VS.-

P.S.Arumugam

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order passed in I.A.No.4 of 2025 in O.S.No.279 of 2022, dated 14.08.2025 on the file of the I Additional District Court, Tirunelveli and allow the above Civil Revision Petition.

For Petitioner :Mr.S.Kumar

For Respondent :Mr.D.Nallathambi



C.R.P.(MD)No.3702 of 2025

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ORDER

The present Civil Revision Petition has been filed challenging the fair and decreetal order passed by the learned I Additional District Judge, Tirunelveli, in I.A.No.4 of 2025 in O.S.No.279 of 2022, dated 14.08.2025.

2.Heard Mr.S.Kumar, learned Counsel for the petitioner and Mr.D.Nallathambi, learned Counsel for the respondent.

3.The respondent is the plaintiff in the suit in O.S.No.279 of 2022 on the file of the I Additional District Court, Tirunelveli. The petitioner is the defendant in the suit. The said suit was filed seeking a direction to the defendant to pay a sum of Rs.49,70,000/- with future interest at 12% per annum and for other reliefs. As the petitioner/defendant did not file any written statement, she was set *ex parte* and an *ex parte* preliminary decree was passed against the petitioner on 11.04.2023. Thereafter, the petitioner has filed an interlocutory application in I.A.No.4 of 2025 under Section 5 of the Limitation Act, to condone the delay of 790 days in filing the petition to set



C.R.P.(MD)No.3702 of 2025

aside the *ex parte* decree, dated 08.03.2023 on the ground that she was unwell and unable to attend the Court on 08.03.2023.

4.The learned I Additional District Judge, Tirunelveli, vide order, dated 14.08.2025, had dismissed the said application on the ground that no explanation has given by the petitioner for the inordinate delay and the petitioner has not produced any medical evidence to substantiate her contention that she was unwell and she has also participated in the execution proceedings. Challenging the same, the present Civil Revision Petition has been filed.

4.The learned Counsel for the petitioner submitted that an *ex parte* order was passed by the trial Court without giving an opportunity to the petitioner and when the petitioner was unaware of the *ex parte* judgment, she had filed an application to set aside the same. The learned Counsel also submitted that the petitioner was unwell on 08.03.2023 and that without considering the health issues, the Court below has dismissed the application filed by the petitioner in a mechanical manner. The leaned Counsel also submitted that the Court below



C.R.P.(MD)No.3702 of 2025

has not considered the fact that the right to defend the suit should not be defeated by adopting pragmatic method. The learned Counsel also submitted that the execution proceedings is now pending and without giving an opportunity to contest the suit, the Court below has dismissed the application filed by the petitioner, which will cause serious prejudice to the petitioner. Hence, he seeks interference of this Court.

5.*Per contra*, the learned Counsel for the respondent submitted that the petitioner was well aware of the proceedings pending before the Court below. The petitioner/defendant had appeared before the trial Court during the pendency of the suit through her Counsel on 28.09.2022 and thereafter, the case was adjourned to 09.11.2022, 05.12.2022 and 19.12.2022 for filing written statement and thereafter, the case was adjourned to 30.01.2023. Even on that date, no written statement has been filed by the petitioner/defendant. He further submitted that except adjournment, none happened for seven months and thereafter, an *ex parte* order was passed by the trial Court on 08.03.2023. He also submitted that even in the final decree proceedings in I.A.No.1 of 2023, notice was sent to the petitioner/defendant and the



C.R.P.(MD)No.3702 of 2025

petitioner/defendant has appeared before the Executing Court through her Counsel on 28.07.2023 and again sought adjournments on various dates and as the petitioner failed to file the written statement, the petitioner was set *ex parte* in I.A.No.1 of 2023, vide order, dated 22.01.2024. Thereafter, in the execution proceedings, the petitioner has entered appearance through her Counsel. In the meanwhile, the petitioner has filed the application in I.A.No.4 of 2025 to condone the delay in filing the petition to set aside the *ex parte* decree. The trial Court by considering all these facts, had rightly dismissed the petition filed by the petitioner, which needs no interference and sought dismissal of this Civil Revision Petition.

6.This Court considered the submissions made on either side and perused the materials available on record.

7.Considering the facts and circumstances of the case and after perusal of the materials available on record, it is to be seen that in the trial proceedings, the petitioner/defendant had appeared through her Counsel on 28.09.2022 and sought adjournments on 09.11.2022, 05.12.2022 and



C.R.P.(MD)No.3702 of 2025

19.12.2022 for filing written statement and thereafter, the case was adjourned to 30.01.2023. Even on that date, as no written statement has been filed by the petitioner/defendant, the case was finally adjourned to 08.03.2023. Even on that date also, the petitioner/defendant has not filed any written statement and hence, an *ex parte* order was passed by the trial Court on 08.03.2023. Further, in the final decree proceedings in I.A.No.1 of 2023, the petitioner/defendant has appeared before the Executing Court through her Counsel on 28.07.2023 and did not file any written statement, despite sufficient opportunity having been given to the petitioner/defendant. Hence, the petitioner was set *ex parte* in I.A.No.1 of 2023, vide order, dated 22.01.2024. Thereafter, in the execution proceedings, the petitioner has entered appearance through her Counsel. Hence, all along the petitioner/defendant had participated in the entire proceedings through her Counsel. Hence, the contention of the petitioner that she is unwell on 08.03.2023 and that she was unable to attend the Court and hence, there is a delay of 2 years cannot be accepted by this Court. Further, the matter was also referred to mediation by the Court below on the request made by the petitioner, however, no settlement was arrived at in the mediation. Considering all these facts, the Court below has rightly passed the impugned



C.R.P.(MD)No.3702 of 2025

order, which needs no interference of this Court.

8.In the result, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

09.12.2025

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

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To

The I Additional District Judge, Tirunelveli.



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C.R.P.(MD)No.3702 of 2025

N.SENTHILKUMAR, J.

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C.R.P.(MD)No.3702 of 2025

09.12.2025