



C.R.P.(NPD)(MD).Nos.726 and 770 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.726 and 770 of 2025

and

C.M.P.(MD)Nos.3848 and 4119 of 2025

Samashad Begum

... Petitioner in both petitions

Vs.

Mumtaji Begam

... Respondent in C.R.P.(MD)No.
726/2025

K.Sheik Hussain

... Respondent in C.R.P.(MD)No.
770/2025

COMMON PRAYER: Civil Revision Petitions - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 23.09.2024 made in I.A.Nos.1 and 2 of 2023 in O.S.No.291 of 2019 and 34 of 2020, respectively on the file of the I Additional District Court (PCR), Tiruchirappalli.

In both petitions:

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondent : Mr.S.Vellaichamy



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COMMON ORDER

These Civil Revision Petitions are filed challenging the orders dated 23.09.2024 made in I.A.Nos.1 and 2 of 2023 in O.S.No.291 of 2019 and O.S.No.34 of 2020, respectively on the file of the I Additional District Court (PCR), Tiruchirappalli.

2.The petitioner in both petitions is the defendant in the suit filed by the respective plaintiff in O.S.No.291 of 2019 and O.S.No.34 of 2020 for recovery of money to the tune of Rs.15 lakhs and Rs.25 lakhs respectively. The suits were dismissed *ex-parte* on 06.11.2020 and 29.02.2021, respectively. Subsequently, execution proceedings were also initiated and the same were also ordered *ex-parte*. However, the petitioner was not aware of all these *ex-parte* orders as against her. Immediately after coming to know about the *ex-parte* order, the petitioner filed interlocutory applications in I.A.Nos.1 and 2 of 2023 in the respective suits seeking to condone the delay in filing the application to set aside the exparte decree. The said applications were dismissed. Challenging the same, these Civil Revision Petitions are filed.



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3.The learned counsel for the petitioner in both petitions submits that the petitioner and the defendants in both petitions are closely related. However, the *ex-parte* decrees were not informed by the respondents/plaintiffs in both suits to the petitioner/defendant. Thereafter, immediately after coming to know about the *ex-parte* decrees, the petitioner filed an application to set aside the *ex-parte* decrees with delay. However, the trial Court without considering all these aspects has dismissed the applications filed by the petitioner, which is a clear violation of principles of natural justice. He would further submits that the petitioner is ready to pay the costs as fixed by this Court to the respondent.

4.The learned counsel for the respondent vehemently contended that the respondent filed two suits as against the petitioner. The first suit in O.S.No.291 of 2019 was decreed *ex-parte* on 06.11.2020 and thereafter, execution petition was also filed and the same was also decreed *ex-parte* in the year 2021. The second suit in O.S.No.34 of 2020 was decreed *ex-parte* on 29.06.2021 and the same was also decreed *ex-parte* in the year 2021 itself. The petitioner without challenging the execution proceedings, has chosen to challenge the *ex-parte* decrees made in the original suits and the same is not



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sustainable. The petitions filed by the petitioner for condoning the delay in filing an application to set aside the *ex parte* decree, were properly adjudicated by the trial Court and the same need not be interfered.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The facts in the present cases are not in dispute. Admittedly, the suits filed by the respondents/plaintiffs in both the suits as against the petitioner were decreed *ex-parte*. It is also equally undisputed that the applications to set aside the *ex-parte* decree were filed with the delay of 1045 and 830 days, respectively. The said applications were also dismissed. Admittedly, the suits were decreed *ex-parte*. In any event, an *ex-parte* decree cannot be allowed to continue, since if the *ex-parte* decree is sustained, it would cause serious prejudice to the petitioner.

7.Considering the nature of delay, the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) each to the respondent/plaintiff in both the petitions and produce a proof for such



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payment before the trial Court within a period of two weeks from the date of receipt of a copy of this order. On such receipt, the trial Court is directed to restore the suits on file and decide the same on merits and in accordance with law after providing sufficient opportunities to the parties concerned. The petitioner is also directed to cooperate with the trial proceedings. It is made clear that if the trial Court feels that the petitioner is not extending his cooperation for the trial proceedings, the trial Court shall draw an adverse inference as against the petitioner and proceed with the trial proceedings. Considering the fact that the respective suits are of the year 2019 and 2020, the trial Court is directed to dispose of the suits within a period of one year from the date on which the suit is restored on file.

8. With the above direction, these Civil Revision Petitions are allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

01.07.2025

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

- 1.The I Additional District Court (PCR), Trichy.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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