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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Case QR

CRP.No.2044 of 2018
CNR:{HCMA010493682018}
and
CMP.No.12132 of 2018

Ameerunnissa Begum Sahiba Endowment,
Rep. by Syed Khaleefathullah,
No.76, Bharathi Salai, Triplicane,
Chennai – 56.

Cause Title amended vide Order dated
25.03.2026 made in CMP.No.3745/2023)

..Petitioner

Vs

1. S.Chandrasekar (died)

2. C.Mala Bai

3. V.Gayathri

4. V. Revathi
   (R2 to R4 brought on record as LRs of the deceased sole respondent vide order dated 25.03.2026 made in CMP.Nos.3746, 3747 & 3749/2023)

..Respondents

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PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order passed by the Trial Judge in I.A.No.1932 of 2017 in O.S.No.3192 of 2011 dated 12.04.2018 on the file of the II Assistant City Civil Court (FAC), I Assistant City Civil Court, Chennai.

For Petitioner: Mr.N.A.Nissar Ahmed
Senior Counsel
for Mr.Nassir Hussain

For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed under Section 115 of Civil Procedure Code against the fair and decreetal order passed in I.A.No.1932 of 2017 in O.S.No.3192 of 2011 dated 12.04.2018 on the file of the II Assistant City Civil Court (FAC), I Assistant City Civil Court, Chennai, wherein application filed by the respondent/defendant under Section 5 of the Limitation Act to condone the delay in filing the petition to set aside the exparte decree came to be allowed.

2.Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

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3.The respondents have been served with notice and their names also printed in the cause list. There is no representation either in person or through counsel.

4.In the case in hand, the petitioner/plaintiff filed a suit in O.S.No.3192 of 2011 seeking for the relief of ejectment and for delivery of vacant possession of the suit property and for payment of arrears of rent. The defendant filed a written statement and the suit reached the stage of recording of evidence. Since the defendant failed to cross examine PW1, he was set exparte and an exparte decree came to be passed on 14.03.2013. Thereafter, an application came to be filed in I.A.No.1932 of 2017 to set aside the exparte decree and the same came to be allowed by the Court below.

5.It is seen from records that after the exparte decree was passed, E.P.No.1889 of 2015 was filed and the respondent/defendant in fact entered appearance on 08.03.2016. However, the application to set aside the exparte decree was filed only in the year 2017 with a substantial delay. The Court below has allowed the said application.

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6.The Court below has not satisfied itself regarding the enormous delay with which the application came to be filed to set aside the exparte decree. In the absence of the same, misplaced sympathy was the only criteria applied by the Court below while allowing the application without assigning any proper reasons.

7.In the light of the above discussion, the order passed by the Court below suffers from perversity warranting interference of this Court. Accordingly, the order passed in I.A.No.1932 of 2017 in O.S.No.3192 of 2011 dated 12.04.2018 on the file of the II Assistant City Civil Court (FAC), I Assistant City Civil Court, Chennai is set aside.

8.Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is allowed.

23-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The II Assistant City Civil Court (FAC),
I Assistant City Civil Court,
Chennai.

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N.ANAND VENKATESH, J.

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