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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

Case QR

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 4309 of 2025
and
CMP.No.22118 of 2025
CNR: {HCMA011690702025}

M.Iyappan

..Petitioner(s)

Vs

V.Leo Vasanth

..Respondent(s)

Civil Revision Petition filed under Section 115 of the Civil Procedure Code, praying to set aside the order dated 23.06.2025 passed by the Hon'ble 1st Additional Sub Judge at Cuddalore in IA.No.243/2022 in OS.No.17/2021 and allow the petition.

For Petitioner(s): Mr.J.P.Rajesh

For Respondent(s): Mr.S.Nedunchezhiyan

ORDER

The Civil Revision Petition has been filed challenging the order passed by the trial Court, dismissing the application filed by the petitioner seeking to condone the delay of 35 days in filing the petition to set aside the ex parte decree.

2. The respondent herein filed a suit for recovery of money against the petitioner. The said suit was decreed ex parte on 26.09.2022. The petitioner

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filed an application to set aside the ex parte decree, along with a petition to condone the delay of 35 days in filing such application, on 30.11.2022. The said condone delay petition was dismissed by the trial Court and aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner would submit that, at the relevant point of time, the petitioner was suffering from severe fever and ill health and therefore, he could not contact his counsel. The learned counsel further submitted that the trial Court, without considering the valid reason assigned by the petitioner, erroneously dismissed the condone delay petition.

4. It is seen from the typed set of papers that an ex parte money decree was passed against the petitioner on 26.09.2022. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that, at the relevant point of time, he was suffering from severe fever and ill health and hence, could not contact his counsel and instruct him suitably.

5. The trial Court dismissed the condone delay petition on the ground that the petitioner failed to produce any documentary evidence to establish the alleged illness. However, apart from filing the affidavit, the petitioner entered the witness box and deposed as P.W.1. There is no contra evidence on the part of the respondent.

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6. Taking into consideration the length of the delay and also the fact that the petitioner entered the witness box and deposed about his illness, this Court is inclined to take a liberal view of the matter and condone the delay. Accordingly, the order dated 23.06.2025 passed by the Hon'ble 1st Additional Sub Judge at Cuddalore in IA.No.243/2022 in OS.No.17/2021 is set aside and the Civil Revision Petition stands allowed.

7. The trial Court is directed to take up the petition to set aside the ex parte decree and dispose of the same in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

23-11-2026

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

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To

The 1st Additional Sub Judge at Cuddalore.

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S.SOUNTHAR, J.

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