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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Case QR

DATED: 23-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 6007 of 2026

CNR: {HCMA012062872026}

Anbalagan (Died)

1. Thillainayagi
2. Arthi
3. Arunakaraki
4. Stalin

..Petitioner(s)

Vs

1. Dhatchinamoorthy
2. Arumugam

..Respondent(s)

Civil Revision Petition filed under Section 115 of C.P.C., praying to set aside the Fair and Decreetal order dated 09.04.2026 in I.A.No.72 of 2022 in O.S.No.338 of 2007 on the file of District Munsif Court, Panruti.

For Petitioner(s): Mr.K.Moorthy

For Respondent(s): R1 – Served – No appearance
Mr.Suriya Prakash (For R2)

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 41 days in filing the petition to restore the suit, which was dismissed for default.

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2. The petitioner herein filed a suit for declaration and recovery of possession. The said suit was dismissed for default for the first time on 21.11.2016. Thereafter, on an application filed by the petitioner, the suit was restored. Again, the suit was dismissed for default for the second time on 23.09.2021. The petitioner filed an application seeking restoration of the suit, along with a petition to condone the delay of 41 days in filing such an application. By the impugned order, the trial Court dismissed the condone delay petition and aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner, by taking this Court to the affidavit filed in support of the condone delay petition, would submit that, due to illness and the pandemic situation, the petitioner could not appear before the Court on that particular date and there was some delay in filing the application. The learned counsel also, by relying on the judgment of the Apex Court in Suo Motu Writ Petition (C) No.3 of 2020, would submit that the period from 15.03.2020 to 28.02.2022 has been ordered to be excluded by the Apex Court. Therefore, there is no delay in filing the petition seeking restoration of the suit.

4. It is seen from the affidavit filed by the petitioner that, at the relevant point of time, he was affected by illness and due to the social distancing

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measures followed at that point of time, he could not contact his counsel immediately and issue necessary instructions to him.

5. It is common knowledge that the period between March 2020 and February 2022 was affected by the COVID-19 pandemic and the Apex Court ordered the exclusion of the period from 15.03.2020 to 28.02.2022. In the case on hand, the suit was dismissed for default on 23.09.2021 and the instant application seeking restoration of the suit was filed on 02.12.2021, well within the COVID period. In such circumstances, technically, there is no delay in filing the Order IX Rule 9 application.

6. Therefore, the impugned order passed by the trial Court is liable to be set aside.

7. Accordingly, the Fair and Decreetal order dated 09.04.2026 in I.A.No.72 of 2022 in O.S.No.338 of 2007 on the file of District Munsif Court, Panruti stands set aside and the Civil Revision Petition stands allowed.

8. The trial Court is directed to take up the Order IX Rule 9 application filed by the petitioner and dispose of the same in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order.

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9. In case the suit is restored, the same shall be disposed of as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order. No costs.

23-11-2026

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

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To

The District Munsif Court, Panruti.

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S.SOUNTHAR, J.

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