Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 6879 of 2026

CNR: {HCMA012426622026}

B.Saravanakumar, S/o.R.Balusamy,
No.105, Jail Hill, Udhagamandalam,
The Nilgiris 643001

..Petitioner(s)

Vs

A.Murugesan, S/o.Aadhipuranam,
Nagakkonanur, vedasandur Post,
Dindigul District.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the Sub - Judge, Udhagamandalam to number the Payment Out Petition bearing I.A.Sr.No.l788 of 2026 and order payment out of Rs. 1,00,000/- (Rupees One Lakh only) lying to the credit of the Suit in O.S. No. 43 of 2020 to the Petitioner/Decree Holder.

For Petitioner(s): Mr. D.R.Raghunath

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ORDER

This Civil Revision Petition has been filed seeking direction to the Subordinate Judge, Udhagamandalam to number the payment out petition filed by the petitioner in I.A.Sr.No.1788 of 2026, seeking payment out of Rs.1,00,000/- lying to the credit of O.S.No.43 of 2020. Since no adverse order is going to be passed against the respondent, notice to him is dispensed with.

2. The petitioner herein/ plaintiff filed the above said suit for recovery of money, based on the promissory note against the respondent/defendant and the said suit was decreed exparte on 29.03.2021. Thereafter, the respondent herein/ defendant filed an application to set aside the exparte decree along with a condone delay petition. The said condone delay petition was dismissed by the Trial Court. Aggrieved by the same, the respondent filed a revision before this court in CRP No.602 of 2025 and the same was allowed on 16.04.2025, on condition the respondent shall deposit a sum of Rs.1,00,000/- to the credit of O.S.No.43 of 2020 on the file Subordinate Judge, Udhagamandalam. Thereafter, the suit was taken up for trial and it was decreed in favour of the petitioner on 19.02.2026, directing the respondent to pay a sum of Rs.5,41,895/- to the petitioner along with interest on the principal amount at the rate of 9% p.a.

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3. It is the case of the petitioner that the respondent has not filed any appeal against the judgment and decree passed in O.S.No.43 of 2020, Therefore, on the strength of the decree passed in favour of the petitioner his favour, the petitioner filed an application seeking payment out of the amount already deposited by the respondent to the credit of original suit and the said application was returned by the Trial Court by directing the petitioner to get appropriate orders from this court.

4. The amount of Rs.1,00,000/- was deposited by the respondent as a condition to set aside the exparte decree. Once exparte decree is set aside and separate decree has been passed on merits in favour of the petitioner/ plaintiff, it is needless to say that the petitioner is entitled to get the amount already deposited by the respondent to the credit of O.S.No.43 of 2020, provided there is no other legal impediment. Therefore, the Trial Court ought to have numbered the application and issued notice to the respondent and then considered the application on its own merits.

5. In view of the above discussion, the petitioner is directed to re-present the I.A.Sr No.1788 of 2026 before the Trial Court, within a period of two weeks from the date of receipt of copy of the order and on such re-presentation, the

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Trial Court shall number the said application, if it is otherwise in order and issue notice to the respondent and after hearing the parties, shall decide the application on its own merits, without being influenced by anything said in this order.

6. With the above observations and directions, this civil revision petition is disposed of. There shall be no order as to costs.

29-10-2026

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

To

The Subordinate Judge,
Udhagamandalam.

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S.SOUNTHAR, J.

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