



C.R.P.(MD)No.180 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2026

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THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.180 of 2026

and

C.M.P.(MD)No.712 of 2026

1.Rajesh Babu
2.Ganesh Thangadurai

... Petitioners

-VS.-

Murugan

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to call for the records relating to the fair and decreetal order, dated 14.11.2025 made in I.A.No.4 of 2025 in R.L.T.O.P.No.1 of 2025 on the file of the Principal District Munsif Court, Tirunelveli and set aside the same.

For Petitioners :Mr.Aayiram K.Selvakumar

For Respondent :Mr.S.Kumar



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25.06.2025. The learned Principal District Munsif, Tirunelveli, vide impugned order, dated 14.11.2025, had dismissed the said application on the ground that even though ample opportunities have been given to the petitioners, they have not filed any counter affidavit. Challenging the same, the present Civil Revision Petition has been filed.

4.The learned Counsel for the petitioners submitted that the trial Court ought to have seen that the delay in filing the set aside *ex parte* is only six days and that the delay is neither willful nor wanton. He also submitted that the trial Court has not followed the dictum of Hon'ble Supreme Court that Section 5 of Limitation Act, application has to be dealt liberally, if the petitioners have come within the reasonable time. It is his further submission that at the time of passing of final decree, the second petitioner is not well and that they are not in a position to file the counter and without considering the same, the trial Court has passed the impugned order, which needs interference of this Court. Hence, he seeks appropriate orders from this Court.

5.The learned Counsel for the respondent submitted that even though the



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Court below has given sufficient opportunities to the petitioners to file counter affidavit, the petitioners have not filed any counter affidavit and has not complied with the orders passed by the Court below directing to file counter affidavit. Hence, the petitioners cannot be shown any indulgence by this Court. It is his further submission that the petitioners have not filed the counter affidavit and has also filed the present application with six days delay, which would show their attitude in dragging the proceedings. It is his further submission that the trial Court after considering the entire facts and circumstances of the case and the materials available on record, has passed the impugned order, which does not warrant interference of this Court. Hence, he seeks dismissal of this petition.

6.From the perusal of the entire facts and circumstances of the case, without delving into the case in detail, this Court is of the sympathetic view that there is only six days delay in filing the petition to set aside the *ex parte* decree and this Court is of the view that one more opportunity may be given to the petitioners to contest the case on merits, as the delay of only six days, the rights of the petitioners to contest the case cannot be denied.



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7.In such view of the matter, the order passed by the learned the Principal District Munsif, Tirunelveli in I.A.No.4 of 2025 in R.L.T.O.P.No.1 of 2025, dated 14.11.2025, is set aside and the trial Court shall pass appropriate orders in the petition to set aside the *ex parte* decree on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8.In result, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2026

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

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To

The Principal District Munsif, Tirunelveli.



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N.SENTHILKUMAR, J.

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