



CRP(MD). No.293 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01/04/2026

CORAM

THE HON'BLE MR. JUSTICE **V. LAKSHMINARAYANAN**

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K. Arjun ... Revision Petitioner/Plaintiff/Petitioner
Vs.
P.Sathyarani ... Respondent/Defendant/Respondent

PRAYER:-Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 15-11-2022 in I.A.No. 56 of 2022 in O.S.No. 187 of 2015 on the file of the District Munsif, Madurai Taluk and allow the revision as prayed for.

For Petitioner : Mr.K.S.Kathiravan
for Mr.C.Mahadevan
For Respondent : M/s M.Bavatharani
for Mr.P.M.Vishnuvarthanan

ORDER

Aggrieved by the dismissal of an application to condone the delay in filing the restoration application under Section 5 of the Limitation Act and Section 151 of the Code of Civil Procedure, the plaintiff is on revision before me.

2. For the sake of convenience, the partis are referred to as per their ranks in the suit.



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3. The plaintiff claimed that he purchased the property from the defendant by way of a registered sale deed dated 18.08.2011 registered on the file of the Sub Registrar, Y.Othakkadai, in document No.4566/2011. He claimed that the sale was made by the defendant through her power of attorney. On the date of the sale, the plaintiff was put in possession and enjoyment of the property. On the basis of the sale deed, the plaintiff alleged that he has also mutated the revenue and municipal records in his name.

4. The plaintiff alleged that after the purchase, he pulled down the superstructure then existing over the property, with an intention to put up a new construction. When he continued his attempt in that light, the defendant together with her husband came over to the suit property and demanded an additional sum of Rs.2,00,000/- as there has been a hike in the land value. The plaintiff denied the claim of the defendant. Consequently, she lodged a false police complaint before the K.Pudur Police Station at Madurai alleging cooked up stories.

5. The plaintiff pleaded that each time he went to the property along with his Engineer to put up a superstructure, he was obstructed by the defendant. Hence the suit for permanent injunction.



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6. Summons were served on the defendant. The defendant filed a detailed written statement. On the basis of the pleadings, issues were framed and the matter was listed for trial. When the matter was listed on 06.04.2017, the plaintiff did not appear before the court. Being left with no other option, the learned District Munsif, Madurai Taluk, Madurai dismissed the suit for default.

7. In order to restore the suit, the plaintiff presented two applications, one under Section 5 of the Limitation Act and another under Order IX Rule 9 of the Code of Civil Procedure. According to him, after presentation of the plaint, whenever he contacted his then counsel, he was informed by him that he will intimate him about the date on which he has to appear before the court. Believing the statement made by the counsel, the plaintiff, being a banana vendor in Coimbatore, was attending to his other affairs rather than following the suit.

8. It was only when he came to Madurai in the last week of September of 2021, he came to know that the suit had been dismissed for default. Pleading that his absence from the court was on account of the aforesaid reasons, he sought the relief of the court to



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condone the delay of 1614 days in filing the restoration petition. This petition was numbered as I.A.No.56 of 2022.

9. The learned Judge called upon the defendant to file a counter. The defendant filed a detailed counter stating that there is absolutely no explanation for the long delay of 1614 days.

10. The learned Trial Judge took up the application for disposal. After referring to two judgments of this Court, the learned Judge dismissed the petition. In the dismissal order, there is no detailed discussion whether the plaintiff has made out a sufficient cause or not. This crucial issue had not been gone into by the learned District Munsif.

11. I heard Mr.K.S.Kathiravan, appearing for Mr.C.Mahadevan, for the petitioner and M/s.Bava Tharani, for Mr.Vishnuvarthanan for the respondent. Both the counsels reiterated the contentions they placed before the Trial Court. I have gone through the records.

12. The plaintiff seeks for restoration of his suit. He claims that he had purchased the property through the power agent of the



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defendant. He seeks an order of injunction against his vendor. He pleads that, having purchased the property, he is entitled to get the benefits of the purchase. The defendant stoutly denies the said allegation. The averments in the affidavit shows that the plaintiff believed the words of his lawyer and went about his routine affairs. On account of the miscommunication between the counsel and the plaintiff, he did not appear before the court, which resulted in the dismissal of the suit for default. For the mistake committed by the counsel, the party need not be visited with adverse consequences. In **Rafiq and another vs. Munshilal and another [AIR 1981 SC 1400]**, the Supreme Court held that an innocent litigant should not suffer for the inaction, omission, or misdemeanor of their advocate.

13. Apart from this, though the delay of 1614 days looms large, I have to take note of the judgment in ***In Re: Cognizance for Extension of Limitation [Suo Motu Writ Petition (Civil) No. 3 of 2020]***. The Limitation Act stood suspended (or more accurately, the period of limitation was excluded) from 15.03.2020 onwards, by virtue of this order. This order was passed taking into consideration the ravages that the nation faced on account of the Covid-19 pandemic. If the said period is excluded, the delay would be around 918 days.



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14. Furthermore, this is not a case, where the defendant has filed an application under Section 5 of the Limitation Act r/w Order 9 Rule 13 of the Code of Civil Procedure. It is a case, where the plaintiff seeks restoration of his suit. The same consideration which should apply for setting aside the exparte decree should not be applied for restoration of suits. By getting his suit dismissed, the plaintiff gains nothing. It is not a case where the defendant is attempting to drag on the proceedings and seeks to get the exparte decree set aside.

15. Having said this, I should take into consideration the prejudice that would have been caused to the defendant on account of being dragged to the court by the plaintiff. If the plaintiff had diligently followed the proceedings, perhaps this revision itself would not be necessary. Even though I find sufficient cause, I have to balance the interests of the plaintiff and the defendant. The inconvenience caused to the defendant can be offset by imposition of heavy costs on the plaintiff.

16. In the light of the above discussion, this Civil Revision Petition succeeds on the following terms:

- (i) The order passed by the learned the District Munsif, Madurai



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Taluk, Madurai, in I.A.No.56 of 2022 in O.S.No. 187 of 2015 dated 15.11.2022 is set aside on the condition that the plaintiff pays the defendant a sum of Rs.10,000/- (Rupees Ten Thousand Only) within a period of four weeks from today.

(ii) On such payment, the learned District Munsif, Madurai shall number the application under Order IX Rule 9 C.P.C.

(ii) The said application will be allowed on a further condition that the plaintiff pays a sum of Rs.5000/-(Rupees Five Thousand Only) to the defendant within a period of four weeks from the date of numbering the application.

(iii) As pleadings are complete and since this is a suit for permanent injunction, the learned District Munsif shall expedite the proceedings.

(iv) In case, any one of the conditions imposed above is not complied with, the Civil revision petition will stand dismissed.

No costs.

01.04.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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1.The District Munsif,
Madurai Taluk

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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V. LAKSHMINARAYANAN,J

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