



C.R.P.(MD) No.618 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2026

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THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P.(MD) No.618 of 2026
and
CMP(MD) No.2875 of 2026**

1.T.Meera Thennavan

2.M.Jayanthi Sesu

... Petitioners

vs.

V.Rajaram

... Respondent

PRAYER: Petition filed under Section 115 of CPC, to set aside the fair and decreetal order made in I.A.No.5 of 2025 in I.A.No.192 of 2018 in O.S.No.350 of 2017 on the file of the II Additional District Munsif Court, Tiruchirappalli dated 04.11.2025.

For Petitioners : Mr.D.Venkatesh

For Respondent : Ms.T.Banumathy

ORDER

This Civil Revision Petition challenges the order passed by the learned II Additional District Munsif, Tiruchirappalli, in I.A.No.5 of 2025 in I.A.No.192 of 2018 in O.S.No.350 of 2017, dated 04.11.2025.



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WEB COPY 2.Heard Mr.D.Venkatesh for the petitioners and Ms.T.Banumathy for the respondent.

3.O.S.No.350 of 2017 is a suit for permanent injunction, restraining the defendant from interfering with the peaceful possession and enjoyment of the property by the plaintiffs.

4.Summons were served on the defendant. The defendant did not file his written statement. Hence, he was called absent and set *ex parte* by the learned Trial Judge on 20.12.2017.

5.To set aside the *ex parte* order, the defendant filed an application in I.A.No.192 of 2018 invoking Order IX Rule 7 of the Code of Civil Procedure. Even in the said application, he did not do the needful. The Trial Court dismissed I.A.No.192 of 2018 for default on 03.04.2018.

6.In order to restore I.A.No.192 of 2018, the defendant filed an application in IA.No.5 of 2025. This application has been filed under Section 5 of the Limitation Act, 1963, seeking condonation of delay of



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2650 days in filing the restoration petition. By an order, dated 04.11.2025, the application came to be allowed on condition that the defendant should pay a sum of Rs.2,000/- to the plaintiffs. Challenging the same, this Revision.

7.Mr.D.Venkatesh drew my attention to the affidavit filed in support of the condonation of delay petition. He pointed out that the only reason given is that the petitioner was suffering from illness and therefore, he could not appear before the Court on 03.04.2018. It further reads that, on completion of the treatment for viral fever, he went to his advocate's office and only then, he had come to know that the application had been dismissed for default on 03.04.2018.

8.He states that there is absolutely no explanation from 03.02.2018 to 07.08.2025, when the application came to be filed. He states that “sufficient cause” is *sine qua non* for the purpose of condonation of delay. That being absent in the present case, the learned Trial Judge erred in exercising the jurisdiction under Section 5 of the Limitation Act, 1963.



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9. *Per Contra*, Ms.T.Banumathy urges that the defendant is a senior citizen aged about 72 years. She states that the defendant regularly contacted his counsel, who he had engaged for the purpose of contesting the suit. He was regularly informed that the case was being adjourned. The dismissal for default of the Order IX Rule 7 application nor the failure to file a restoration application was ever informed to the party. It was, in those circumstances, that the application came to be allowed.

10. She points out that from 2018 to 2025, the suit had been repeatedly adjourned by the Court for judgment and that 3 Judicial Officers have changed and none of them entered upon the judgment in the suit. She states that, the defendant being a senior citizen, the matter may be looked at with some sympathy.

11. I have carefully considered the submissions of both sides. I have gone through the records.

12. I.A.No.192 of 2018 is admittedly an application filed under Order IX Rule 7 of the Code. An application under Order IX Rule 7 of



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the Code does not contemplate filing of an application to condone the delay. In case, an application under Order IX Rule 7 of the Code is allowed, the clock is set back to the date, on which, the defendant was set *ex parte* and he would be permitted to participate in the proceedings.

13.It is not in dispute that, post the dismissal for default of the Order IX Rule 7 application, the matter had been adjourned for recording evidence and thereafter for judgment. The main application in I.A.No.192 of 2018 is not hit by Section 5 of the Limitation Act, 1963. (see, **Pilla Reddy Vs. Thimmaraya Reddy, (1997) 1 MLJ 37**). Hence, filing an application to restore the application, which had been dismissed for default along with the condonation of delay application, is entirely misconceived. It is well settled that once a suit has been instituted, limitation will not run. In fact, the defendant could have filed a fresh application under Order IX Rule 7 of the Code and could have participated in the proceedings on and from that date. This position does not require elaboration, as it has been settled by the Supreme Court in **Arjun Singh Vs. Mohindra Kumar and others, AIR 1964 SC 993**. In any event, the learned Trial Judge has decided



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to exercise his discretion to condone the delay. Such discretion should normally not be interfered with in revision.

14. Be that as it may, as the defendant seeks right to participate in the litigation, imposing a sum of Rs.2,000/- is hardly sufficient. While confirming the order permitting the defendant to participate in the litigation, I am of the view that, a sum of Rs.2,000/- must be enhanced to Rs.15,000/-. Hence, this Civil Revision Petition stands disposed of with the following directions:-

i) The opportunity granted to the defendant to participate in the litigation is sustained on condition that the defendant will pay a sum of Rs.15,000/-, to the plaintiffs, less the amount of Rs.2,000/- already deposited, within a period of four weeks from today.

ii) The defendant must file his written statement within the said period.

iii) In case, the defendant fails to pay a sum of Rs.13,000/- to the plaintiffs as directed by this order or if he does not file the written statement within the time period granted, the benefit of this order will not enure to the defendant. It will be treated as if I.A.No.5 of 2025 stand dismissed.



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WEB COPY No costs. Consequently, connected Miscellaneous Petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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18.03.2026

To

The II Additional District Munsif, Tiruchirappalli.



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V. LAKSHMINARAYANAN, J.

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