



CRP(MD). No.3644 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3644 of 2025
and
CMP(MD) No.19299 of 2025**

Santhi

... Petitioner

Vs

Krishnasamy

... Respondent

PRAYER :-Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the Fair and Decreetal order dated 25.08.2025 made in IA No.3 of 2025 in OS No.23 of 2022 on the file of the District Munsif Court, Sattur, Virudhunagar District.

For Petitioner : Ms.S.Ananthi

For Respondent : Mr.A.Sivaji

ORDER

The Civil Revision Petition has been filed challenging the order dated 25.08.2025 made in I.A.No.3 of 2025 in O.S.No.23 of 2022 on the file of the District Munsif Court, Sattur.



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2.The respondent/plaintiff has preferred O.S.No.23 of 2022 before the District Munsif Court, Sattur, seeking for the relief of declaration and permanent injunction. In the suit, an *ex parte* decree came to be passed on 08.11.2023. Thereafter, the petitioner/fourth defendant has filed an application in I.A.No.3 of 2025 before the District Munsif Court, Sattur, praying to condone the delay of 38 days in filing a petition to set aside the *ex parte* decree, dated 08.11.2023. The said application was dismissed on 25.08.2025. Challenging the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner would submit that at the time of affixing summons, the petitioner was in some other station and the judgment and decree passed in O.S.No.23 of 2022 was not brought to her knowledge immediately by the trial Court advocate. On coming to know about the judgment and decree, immediately thereafter necessary steps were taken by the petitioner to file an appeal. The Court below, without considering the facts and circumstances of the case properly, had dismissed the application. Hence, she prays for appropriate orders.



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4.The learned counsel for the respondent would strongly dispute the petitioner's contention that, at the time of affixing the summons, she was away in another station and would contend that such a plea is only an afterthought invented to invalidate the service of summons.

5.I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record.

6.The matter comes up for consideration of application under Section 5 of the Limitation Act with a prayer for condoning the delay of 38 days in filing an appeal.

7.Admittedly, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay if the petitioner is able to demonstrate "sufficient cause" for not preferring the appeal within the prescribed limitation period. The explanation offered must be reasonable, *bona fide*, and not indicative of negligence or inaction.



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8. Even though the learned counsel for the petitioner had taken a plea that the petitioner was not properly served and came to know about the proceedings only subsequently, from the perusal of records, it is seen that the petitioner did not clearly state or substantiate the exact date, on which she allegedly came to know about the affixture of summons and the specific date, on which she became aware of the *ex parte* decree passed against her.

9. It is to be noted that a party, who seeks to set aside an *ex parte* decree or challenge the consequential proceedings, must specifically plead and prove the date of knowledge, as the same is crucial for determining limitation and bona fides.

10. Further, the petitioner had attempted to justify the delay by contending that she was suffering from certain ailments. However, this Court found that no medical records or supporting documents were produced to substantiate the claim of illness.

11. In the absence of such material particulars, the plea of lack of proper service and delayed knowledge cannot be accepted. In such



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circumstances, this Court concluded that the petitioner has failed to make out any valid ground for interference with the order of the Court below.

12.In fine, this Civil Miscellaneous Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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10.02.2026

To

The District Munsif, Sattur, Virudhunagar District.



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N.SENTHILKUMAR, J.

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