



CRP(MD). No.3930 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.3930 of 2025

G.Philip

... Petitioner

Vs

M/s.Kaviyan Construction Private Ltd.,
Through its Power Agent,
N.Vishwanathan,
S/o. Nageswarn,
No.184, Vagai Colony,
80 Feet Road, Anna Nagar,
Madurai – 625 020.

... Respondent

PRAYER :-Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair order and decretal order in I.A.No. 36 of 2024 in O.S.No.171 of 2025, dated 12.09.2025 on the file of the Principal District Judge, Madurai.

For Petitioner : Mr.T.R.Subramanian

For Respondent : Mr.S.Sathyaganesh

ORDER

This civil revision petition has been filed to set aside the fair order and decretal order in I.A.No.36 of 2024 in O.S.No.171 of 2025, dated



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12.09.2025 on the file of the Principal District Judge, Madurai.

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2. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

3. This application has been filed to set aside the ex parte order passed against the revision petitioner along with a petition to condone the delay of 2664 days. The learned counsel for the petitioner submitted that the petitioner had shifted from the address mentioned in the plaint and therefore no summons was served on him. Hence, he was not aware of the civil proceedings pending against him. Therefore, the delay of nearly seven years cannot be taken into consideration, since no summons was served on him. In the absence of any material to show that summons was served on the revision petitioner, who is the defendant in the suit, the question of delay does not arise.

4. Per contra, the learned counsel for the respondent submitted that, for identical facts, a criminal case was pending and in the said case the revision petitioner was appearing on all hearing dates. Therefore, the



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plea of shifting of address cannot be accepted.

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5. Even for the sake of argument, the said contention cannot be taken into consideration, since service of summons is the only material to show that the defendant/revision petitioner had knowledge about the institution of the suit.

6. There is no reference with regard to the service of summons. Another point argued by the learned counsel for the respondent is that substituted service was effected. Substituted service would come into play only after an attempt has been made to serve the summons in the ordinary manner and the same has failed. Only thereafter, upon an application made by the respondent/plaintiff, the Court may order substituted service. In the present case, in the absence of any discussion with regard to the service of summons on the petitioner/defendant, the substituted service cannot be taken into consideration. Hence, the order passed by the trial Court is liable to be set aside.



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7. Accordingly, this civil revision petition is allowed. No costs.

The impugned order passed by the trial Court is set aside.

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

19.02.2026

TM

To

1.The Principal District Judge, Madurai.

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



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N.SENTHILKUMAR, J.

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