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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-08-2026

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THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP. Nos.5603 of 2025 & 5392 of 2026

and

CMP. Nos.28101 of 2025 & 23374 of 2026

Jayaprakash

..Petitioner in both CRPs

Vs

P.Sridhar

..Respondent in both CRPs

Prayer in CRP. No.5603 of 2025: This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 06.08.2025 passed in E.P. No.89 of 2022 in O.S. No.12 of 2021 on the file of the Principal District and Sessions Court, Tiruvannamalai.

Prayer in CRP. No.5392 of 2026: This Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the order dated 04.01.2024 passed in I.A. No.1 of 2023 in O.S. No.12 of 2021, on the file of the District Court, Udhagamandalam insofar direction to deposit of 50% of the decree amount by the petitioner.

For Petitioner(s): Ms.Rajkumari.D in both CRPs

For Respondent(s): Mr.C.S.K.Sathish in both CRPs



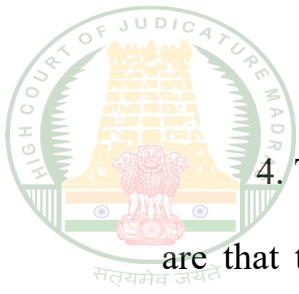
COMMON ORDER

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Heard learned counsel for the petitioner, Ms.D.Rajkumari and Mr.C.S.K.Sathish, learned counsel for the respondent.

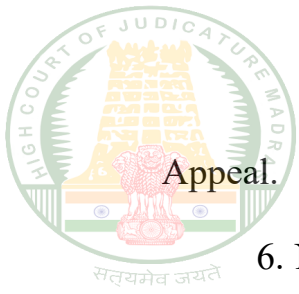
2. Though the matter was adjourned calling for records from the learned Principal District and Sessions Judge, Tiruvannamalai, it is brought to my notice that the suit was actually disposed of by the learned District Judge, Udhagamandalam and not by the learned Principal District and Sessions Judge at Tiruvannamalai. It is only the EP proceedings that have been initiated before the learned Principal District Sessions Judge, Thiruvannamalai, on transmission of the decree, at the request of the decree holder.

3. These two revisions have been filed, one of the revisions is challenging the order in the Execution Proceedings directing sale, in which a conditional order has been passed on 11.11.2025, directing deposit of Rs.7,00,000/-. The said interim order has been complied with and the interim order subsequently extended thereafter. The other revision petition in CRP. No. No.5392 of 2026, has been filed in September 2025, challenging the conditional order passed by the learned District Judge, Udhagamandalam, in allowing the Section 5 Application, directing deposit of 50% of the decretal amount.



4. The reasons assigned by the petitioner in the condone delay application are that the petitioner was not served with summons. However, the learned counsel for the respondent specifically brought to my notice the observations of the Trial Court while decreeing the suit, that the summons were attempted to be served on the petitioner as defendant in the suit and the same was refused to be received and only thereafter, the defendant has been set exparte. However, contrary to the said fact, the petitioner has filed an application seeking condonation of delay, as if he was further never served with summons in the suit.

5. Be that as it may, subsequent to the decree passed exparte, the petitioner already preferred a First Appeal in A.S. SR. No.19890 of 2025 as early as on 07.02.2025, and it is only thereafter that the present revision petition seeking to set aside the conditional order in the Section 5 Application has been filed. In any event, the petitioner has as on date deposited Rs.7,00,000/-, in pursuance of the order in the other revision. Therefore, in effect, the petitioner has complied with the conditional order passed. At the same time, since the subject matter in the decree is already under challenge in the First Appeal, I do not see how the petitioner can be permitted to ride two horses at the same time. When the judgment and decree has been challenged, and there is also a clear observation in the judgment finding that the petitioner has refused to receive summons, the same can also be challenged as one of the grounds in the First



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6. Now that the petitioner has deposited Rs.7,00,000/- and complied with the conditional order passed in the CRP. No.5603 of 2025, arising out of the Execution Proceedings, I am inclined to dispose of the revisions in the following manner:-

- (i) *The orders of the District Court as well as the Executing Court are confirmed;*
- (ii) *However, the petitioner shall have four (4) weeks time from the date of receipt of the copy of the order to cure all defects and re-present the papers. As there is also delay in preferring the First Appeal, the condone delay application shall be taken up without any delay and after affording a fair opportunity to the respondent to file a counter, the First Appellate Court shall decide the condone delay application within a period of four (4) weeks from the date of counter being filed.*
- (iii) *In the event of the delay being condoned, the First Appellate Court shall consider the stay application filed, or to be filed by the petitioner and after hearing the petitioner and the respondent, the First Appellate Court, shall dispose of the said application within a period of four (4) weeks. While doing so, the First Appellate Court shall take into account the deposit of Rs.7,00,000/- made by the petitioner already.*
- (iv) *However, in the event of the condone delay application being dismissed, then it shall be open to the respondent to proceed with the Execution Petition, thereafter. In the event of the condone delay petition being allowed, then, the Execution Proceedings shall be kept in abeyance, till the disposal of the stay application in the Appeal Suit and subject to the orders passed in the stay application, it shall be*



open to the Executing Court to accordingly proceed/defer the Execution Proceedings.

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9. With the above directions, these Civil Revision Petitions are **disposed** **of**. Consequently, connected Miscellaneous Petitions are also closed. No costs.

20-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RKP

To
1. The Principal District and Sessions Judge,
Tiruvannamalai.

2. The District Judge, Udhagamandalam.



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P.B.BALAJI, J.

rkp

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