

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 6041 of 2025 &
CMP.No.29818 of 2025**

S.Rajaiah
No.32, Elaya Mudali Street, Old Washermanpet,
Chennai 21

..Petitioner(s)

Vs

M.Rajalakshmi
D3, Rohini Apartments, 180, Royapettah High Road,
Mylapore, Chennai 4

..Respondent(s)

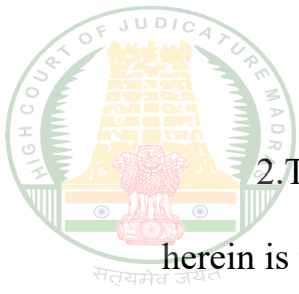
Civil Revision Petition filed under Section 115 of the Code of Civil Procedure 1908 praying to set aside the Fair and Decretal order in E.A.No.2 of 2025 in E.P.No.1475 of 2023 in O.S.No.2004 of 2020, dated 04.11.2025 on the file of the IX Assistant City Civil Court, Chennai

For Petitioner(s): MR.N.Suresh

For Respondent(s): MR.Rishi S.Anuja

ORDER

This Civil Revision Petition has been filed seeking to set aside the Fair and Decretal order in E.A.No.2 of 2025 in E.P.No.1475 of 2023 in O.S.No.2004 of 2020, dated 04.11.2025 on the file of the IX Assistant City Civil Court, Chennai.



2. The revision petitioner herein is the defendant and the respondent herein is the plaintiff in the original suit in O.S.No.2004 of 2020.

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3. Heard both sides and perused the materials available on record.

4. On perusal of the records, it is revealed that the plaintiff filed a suit in O.S.No.2004 of 2020 on the file of XIII Assistant City Civil Court, Chennai, against the defendant for directing the defendant to pay a sum of Rs.5,00,000/- to the plaintiff together with interest at the rate of 18% per annum from the date of plaint till the date of realization of the entire amount and for costs. Despite sufficient opportunities, the defendant has not filed written statement denying all the averments made in the plaint. After perusing the records, the Trial Court pronounced the ex-parte judgment dated 08.04.2022 against the defendant. However, the defendant failed to satisfy the ex-parte decree amount. Challenging the same, the plaintiff/Decree Holder filed an E.P.No.1475 of 2023 seeking to arrest and detention of the defendant/Judgment Debtor and send to civil prison under Order XXI Rule 38 of the Code of Civil Procedure. During the pendency of the EP proceedings, the revision petitioner/Judgment Debtor filed an E.A.No. 2 of 2025 under Order XXI Rule 106 of the Code of Civil Procedure seeking to set aside the ex-parte order dated 26.02.2025 in EP.No.1475 of 2023 and thereby permit the revision petitioner/defendant/JD to proceed further contest the EP proceedings. After perusing the relevant records,



the Executing Court allowed the application in E.A.No. 2 of 2025 on condition that the revision petitioner/Judgment Debtor shall pay a sum of Rs.1,00,000/- to the plaintiff/ Decree Holder as part payment on or before 18.11.2025, failure of which petition stands automatically dismissed by order dated 04.11.2025. Aggrieved over the same, the revision petitioner/defendant has come forward with the present Civil Revision Petition.

5.It is further seen that the revision petitioner/Judgment Debtor entered appearance in Executing Court through his Counsel on 16.02.2024 and he was called upon to file counter affidavit in the execution petition and he has not filed any counter affidavit in the EP. Hence, he was set ex-parte in the Executing Court on 22.04.2024. Subsequently, the revision petitioner filed an application in E.A.No.1 of 2024 seeking to set aside the ex-parte order dated 22.04.2024 and the same was allowed on 02.09.2024. Thereafter, evidence was taken in the EP proceedings. The Plaintiff/Decree Holder was examined as PW1 and the EP was posted for PW1 cross by the revision petitioner/Judgment Debtor. PW1 was not cross examined by the revision petitioner/Judgment Debtor. On 26.02.2025, the revision petitioner/Judgment Debtor was once again set ex-parte for non cross-examination of PW1. Pursuant to the same, the revision petitioner/Judgment Debtor had come up with the second application to set aside the ex-parte order dated 26.02.2025 against the revision petitioner/Judgment Debtor.



6. The contention of the revision petitioner/Judgment Debtor is that he was sick and his counsel was changed and therefore, PW1 cross-examination has not been made by the revision petitioner/Judgment Debtor. The EP claim amount is Rs.6,49,558/-. While that being the case, the Court below ought not to have imposed onerous condition for setting aside the ex-parte order. The impugned order passed by the court below suffers from material irregularity and the same is perverse and it is liable to be set aside.

7. Accordingly, this Civil Revision Petition is allowed by setting aside the impugned order passed by the Court below in E.A.No.2 of 2025 in EP.No.1475 of 2023 in O.S.No. 2004 of 2020, dated 04.11.2025 on the file of IX Assistant City Civil Court, Chennai. Petitioner is directed to co-operate for EP proceedings. No costs. Consequently, connected civil miscellaneous petition is closed.

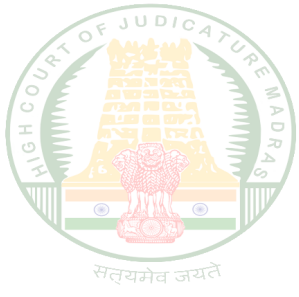
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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MSM



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T.V.THAMILSELVI, J.

MSM

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