

C.R.P.(MD) No.584 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P.(MD) No.584 of 2026
and
CMP(MD) No.2713 of 2026**

Vengidasamy

... Petitioner

vs.

Gopalakrishnan

... Respondent

PRAYER: Petition filed under Section 115 of Civil Procedure Code, to set aside the Impugned Fair and Decreetal order passed in IA No.2 of 2026 in OS No.156 of 2022 dated 10.02.2026 on the file of the Learned Subordinate Court, Periyakulam, Theni District.

For Petitioner : Mr.P.Saravanan

For Respondent : Ms.P.Malini

ORDER

The defendant is the civil revision petitioner.

2.For the sake of convenience, the parties will be referred to as their ranks in the suit.

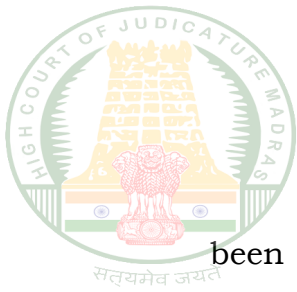


C.R.P.(MD) No.584 of 2026

3.O.S.No.156 of 2022 was presented by the plaintiff seeking recovery of a sum of Rs.1,00,000/- together with interest. The suit has been presented on the foot of a promissory note. The suit was taken on file and summon was served on the defendant. The defendant was called upon to appear on 30.01.2023. He did not appear. Consequently, he was set *ex parte*. For a period of 11 months thereafter, he took no steps to set aside the *ex parte* order. This resulted in an *ex parte* decree being passed on 05.12.2023.

4.The plaintiff armed with the decree presented EP.No.18 of 2025 seeking to arrest the civil revision petitioner for having willfully defaulted in not honouring the decree. On coming to know of the same, the defendant rushed to the Court with an application under Section 5 of the Limitation Act, 1963 and also an application under Order IX Rule 13 of the Code of Civil Procedure.

5.The plea that the defendant took to get the delay condoned was that his mother was sick with high diabetic level and blood pressure. Being a dutiful son, he was taking care of her health and consequently, he did not appear before the Court. This plea was stoutly resisted by the plaintiff. He pointed out that no records have



C.R.P.(MD) No.584 of 2026

been produced by the defendant to substantiate the plea of sickness.

He further pleaded that the entire attempt of the defendant was only to drag on the matter and deny the plaintiff the fruits of the decree.

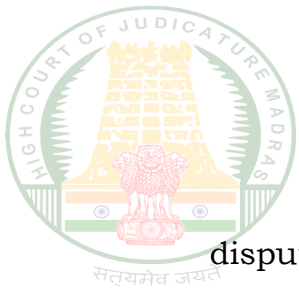
6.The learned Subordinate Judge at Periyakulam, on a consideration of the affidavit and petition, did not find sufficient cause in the application filed by the defendant. Consequently, he dismissed the same. Hence, this revision.

7.I heard Mr.P.Saravanan for the civil revision petitioner and Ms.P.Malini for the respondent.

8.The learned counsel reiterated the contentions they placed before the Court below.

9.I have carefully considered the submissions of the learned counsel on either side. I have gone through the records.

10.Here is a suit for recovery of money on a promissory note. The date on which the defendant was set *ex parte* and the date of passing of the *ex parte* decree are not in dispute. It is also not in



C.R.P.(MD) No.584 of 2026

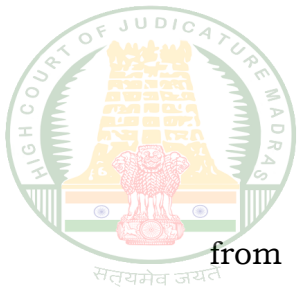
dispute that the plaintiff has initiated execution proceedings in EP.No.

18 of 2025.

11.The plea of the defendant is that his mother was sick and hence, as a dutiful son, he was taking care of her. Ms.Malini is right that no record had been produced by the defendant to substantiate this plea. Mr.P.Saravanan points out that post the death of the defendant's mother on 13.06.2025, he had destroyed all the medical records relating to her treatment.

12.In order to condone the delay, a party will have to make out a sufficient cause. When one's parent, especially a mother, is sick and ailing, it would be unfair and uncharitable on the part of the Court to expect a party to rush to the Court to defend a suit and leave his aged parent in lurch. It is but natural that a son would take care of his parents.

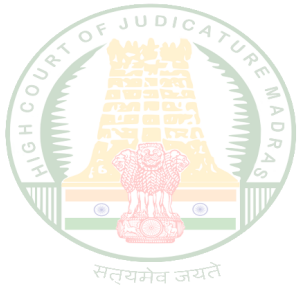
13.While I see a 'good cause' for condonation of delay, the strenuous submissions made by Ms.Malini persuade me to impose costs at the time of allowing the application. Even if I were to accept that the defendant, for reasons beyond his control, had kept away



C.R.P.(MD) No.584 of 2026

from the Court, I have to take into consideration the plight of the plaintiff, who had proceeded further to recover the money. In order to balance the interests of both sides, as directed by the Supreme Court in **N.Balakrishnan Vs. M.Krishnamurthy, (1998) 7 SCC 123**, I am inclined to condone the delay on imposition of heavy costs.

14. Accordingly, the Civil Revision Petition stands allowed. The order passed by the learned Subordinate Judge at Periyakulam, Theni District in IA No.2 of 2026 in OS No.156 of 2022 dated 10.02.2026 is set aside on the condition that the defendant deposits a sum of Rs.70,000/- to the credit of O.S.No.156 of 2022 **on or before 05.06.2026**. In case, the amount is not deposited, this Civil Revision Petition will stand dismissed, without further notice to this Court. On such deposit, the learned Subordinate Judge at Periyakulam is requested to set aside the *ex parte* decree passed in O.S.No.156 of 2022, dated 05.12.2023 and receive the written statement filed by the defendant. The dismissal of the petition filed under Order IX Rule 13 of the Code being consequential to the dismissal of the application filed under Section 5 of the Limitation Act, when the original order is set aside, the dependant order automatically has to fall.



C.R.P.(MD) No.584 of 2026

WEB COPY

15.As it is a suit for recovery of money, with the pleadings having been completed, the learned Subordinate Judge at Periyakulam, shall expedite the suit at all stages. The warrant of arrest, in case, any issued shall stand deferred **till 05.06.2026**. No costs. Consequently, connected Miscellaneous Petition is closed.

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

17.04.2026

mm

To

The Subordinate Judge, Periyakulam, Theni District.



WEB COPY



C.R.P.(MD) No.584 of 2026

V. LAKSHMINARAYANAN, J.

mm

C.R.P.(MD) No.584 of 2026

17.04.2026