

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2290 of 2011

1. S. Muthulakshmi
  2. Minor.S. Ramaraj
  3. Minor.S. Chithra
  4. Palanisamy
  5. Marathal
- (Minor petitioners 2 and 3 are represented  
by their mother and natural guardian the  
1<sup>st</sup> petitioner)

.... Petitioners

vs

1. The Superintending Engineer,  
Tamil Nadu Electricity Board,  
Udumalpet
2. The Assistant Executive Engineer,  
Tamil Nadu Electricity Board,  
Pethappampatti
3. The District Collector,  
Tamil Nadu Government,  
Coimbatore

.... Respondents

Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and decretal order in I.A.No.232 of 2009 in Indigent O.P.No.100 of 2005 on the file of Sub Court, Udumalpet.

For Petitioners : Mr.R. Krishnan

For R.1 & R.2 : Mr.V. Viswanathan

For 3<sup>rd</sup> respondent : No appearance

### **ORDER**

Challenging the fair and decretal order passed in I.A.No.232 of 2009 in Indigent O.P.No.100 of 2005 on the file of Sub Court, Udumalpet, the petitioners/plaintiffs have filed the above Civil Revision Petition.

2. The petitioners filed an application in I.A.No.232 of 2009 to permit them to pay the court fee and prosecute the suit on merits. Earlier, the plaintiffs filed an Indigent Original Petition in O.P.No.100 of 2005 to permit them to file the suit as Indigent Persons.

3. The trial Court dismissed the Original Petition. Thereafter, the plaintiffs filed the present application seeking permission of the Court to pay the court fee and prosecute the suit. The said application was contested by the respondents and the trial Court dismissed the application, finding that the application has been filed at a belated stage.

4. Since the petitioners were not in a position to mobilize the funds for payment of court fee, in the interest of justice, the trial Court could have allowed the application. Due to poverty, the petitioners were not in a

position to pay the court fee in time. Therefore, I am of the considered view that in the interest of justice, in order to give an opportunity to the petitioners, they can be permitted to pay the court fee and prosecute the suit.

5. In these circumstances, the fair and decreetal order passed in I.A.No.232 of 2009 in Indigent O.P.No.100 of 2005 are set aside and the application in I.A.No.232 of 2009 stands allowed. The petitioners shall pay the court fee within a period of two weeks from the date of receipt of copy of this order. On payment of court fee, the trial Court is directed to number the plaint.

6. With these observations, the Civil Revision Petition is allowed.  
No costs.

26-11-2015

sr

Index:no  
website:yes

To

The Sub Court, Udumalpet

**M. DURAISWAMY,J.,**

sr

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