

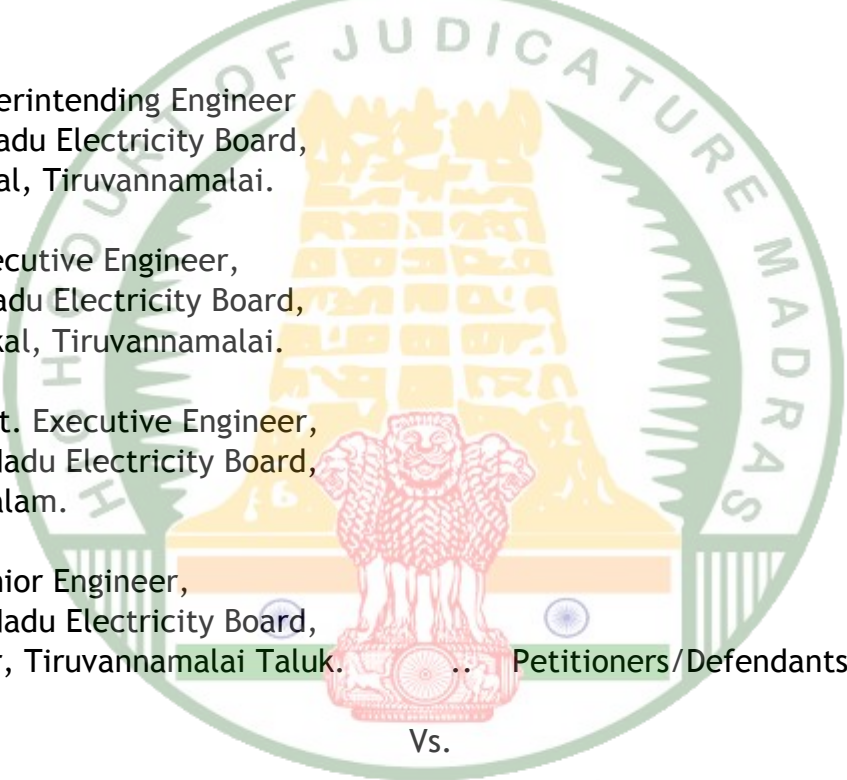
IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 29.01.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD) No.175 of 2018 and C.M.P.No.18618 of 2016

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- 1 The Superintending Engineer
Tamil Nadu Electricity Board,
Vengikkal, Tiruvannamalai.
- 2 The Executive Engineer,
Tamilnadu Electricity Board,
Vengikkal, Tiruvannamalai.
- 3 The Asst. Executive Engineer,
Tamil Nadu Electricity Board,
Vettavalam.
- 4 The Junior Engineer,
Tamil Nadu Electricity Board,
Konalur, Tiruvannamalai Taluk. ... Petitioners/Defendants 1 to 4

Vs.

- 1 Alamelu
- 2 Minor Vijayan
- 3 Vijayakumar
- 4 Kannammal ... Respondents 1to4/Plaintiff 1 to 4
- 5 Dhinakari
- 6 Mani
- 7 Jakar ... Respondents 5to7/Defendants 5 to 7

This Civil Revision Petition is filed under section 227 of Constitution of India against the order dated 28.03.2016 made in I.A.No.40 of 2014 in

I.A.No.68 of 2012 in A.S.No.NIL/2012 on the file of the District Judge, Tiruvannamalai.

For Petitioners	: Mr.V.Viswanathan
For Respondents 1 to 4	: Mr.I.Paranthaman
For Respondents 5 & 6	: Mr.P.Mani
For Respondent No.7	: No appearance

ORDER

According to the petitioner, the petitioner has filed an application in I.A.No.68 of 2012 to condone the delay of 89 days in filing the appeal in A.S.No.NIL of 2012 before the District Court, Tiruvannamalai. Counter affidavit has been filed by the respondents 1 to 4/plaintiffs stating that has no objection to condone the delay of 89 days in filing the appeal. The defendants 5 and 6/respondents 5 and 6 herein also has no objection for condoning the delay of 89 days in filing the appeal. The court below recording no objection on the side of the respondents, allowed the application on condition that the petitioner shall pay a sum of Rs.500/- to the respondents. The said order has not been complied with by the petitioner. Hence, he filed an application to extend the time to comply with the conditional order of the court below. However, the same was dismissed by the court below. Challenging the said order, the present Civil revision petition has been filed before this Court.

2 The learned counsel for the petitioner would submit that reason for non payment of cost has explained in detail in the affidavit by stating that due to official workload and prevailing electricity problem in the locality, the petitioner was not able to meet the petitioner's counsel and hence the conditional order could not be complied with by the petitioner.

3 The learned counsel for the respondent would submit that the court below has rightly dismissed the application and therefore, the Civil revision petition is liable to be dismissed.

4 Heard the learned counsel for the petitioner, the learned counsel for the respondents 1 to 4 and the learned counsel for the respondents 5 and 6 and perused the materials available on record.

5 Considering the facts and circumstances of the case, this court is inclined to give an opportunity to the petitioner to contest the appeal suit on merit. Therefore, in the interest of justice, this court is inclined to pass the following order:

(i) The order, dated 28.3.2016 passed learned District Judge, Tiruvannamalai in I.A.No.40 of 2014 in I.A.No.68 of 2012 in A.S.No.nil/2012 is set aside on payment of cost of Rs.2500/- to the respondents 1 to 4 and

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Rs.2500/- to the respondents 5 and 6 and Rs.500/- to the 7th respondent, within
a period of two weeks from the date of receipt of a copy of this order.

(ii) In the event of the conditional order has been complied with
by the petitioner, the court below is directed to number the appeal suit and
decide the same as expeditiously as possible.

5 The Civil revision petition is allowed with the above directions.
Connected miscellaneous petition is closed.

Post the matter after two weeks for reporting compliance.

29.1.2018

Speaking/Non Speaking order

Index: Yes/No

Note: Issue order copy on 31.1.2018

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To

The District Judge, Tiruvannamalai

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