



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 11.11.2019

CORAM

WEB COPY

**THE HONOURABLE MS. JUSTICE P.T.ASHA**

C.R.P. (NPD) (MD)No.1574 of 2013

Sikkayee

.. Petitioner

Vs.

1.L.Manickam

2.Selvi

3.Gnanavalli

4.Nirmala

.. Respondents

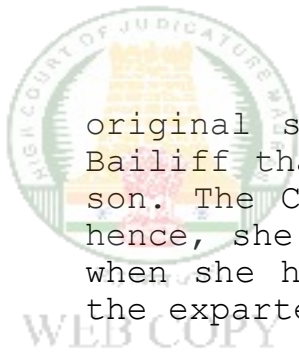
**Prayer :** This Civil revision petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 03.08.2013 made in I.A.No.553 of 2010 in O.S.No.274 of 2009 on the file of the learned Additional District Munsif, Lalgudi.

|                                |                                             |
|--------------------------------|---------------------------------------------|
| For Petitioner                 | : Mr.P.Thiagarajan                          |
| For 1 <sup>st</sup> Respondent | : Mr.J.Ashok for<br>M/s.Jeyapaul Associates |
| For 3 <sup>rd</sup> Respondent | : Mr.B.Jameel Arasu                         |

**ORDER**

The above revision petition is filed by the second defendant, challenging the dismissal order passed by the learned Additional District Munsif, Lalgudi.

2.The first respondent/plaintiff had filed a suit in O.S.No.274 of 2009 on the file of the learned Additional District Munsif, Lalgudi, for a prayer of injunction restraining the defendants from interfering the plaintiff's peaceful possession and enjoyment of the suit property. It is his contention that the defendants were adjacent owners and the revision petitioner who is the second defendant was residing to the south of the suit property. The defendants had wanted to purchase the property. Since the plaintiff had refused to alienate the property in their favour, they had tried to demolish the building, which was constructed on the suit property, with the rowdy elements on 02.09.2009 and they had threatened to come over and demolish the same. The plaintiff therefore, was constrained to file a suit. The defendants were set exparte and thereafter, the second respondent herein filed an application in I.A.No.272 of 2009 to condone the delay of 282 days in filing the petition to set aside the exparte decree dated 07.10.2009. In the petition, she would contend that when the



original summons from the Court was served, she had informed the Bailiff that she will receive the summons only after consulting her son. The Court Aamin did not return to issue summons on her again, hence, she did not come to know about the exparte decree. It is only when she had been called to Police Station, she came to know about the exparte decree order.

3.The defendants filed a counter refuting the statements made by the revision petitioner stating that she was very hale and health and infact she had been working in the 100 days employment scheme in Keelaperahambi Village. She had deliberately not received the summons and the delay had been occurred only because the defendants had deliberately kept away from the proceedings and therefore, the present petition is filed with huge delay.

4.The learned Additional Distirct Munsif, after considering the evidence of the petitioner as P.W.1, has come to the conclusion that the petitioner had come forward with a false case and proceeded to dismiss the said application. Challenging the same, the revision petition is before this Court.

5.The learned counsel for the petitioner would submit that liberal attitude may be adopted for condoning the delay, particularly when the petitioner has come forward with the valid reasons, which had resulted in the delay. The same is opposed by the learned counsel by the respondents.

6.A reading of the order passed by the learned Additional Distirct Munsif, would indicate that the petitioner had come forward with contention that she could not receive the summons as she was bed ridden on the date on which, the Bailiff attempted to serve her. However in her oral evidence, she would admit that she was hale and health. The learned Judge taking note of Ex.R1, which was filed by the respondents, observed that during the period in question, the petitioner was engaged in 100 days employment scheme. Considering the fact that the petitioner has come forward with a total false case, this Court is also not inclined to interfere with the order passed by the learned Additional District Munsif, Lalgudi.

7.Accordingly, this Civil Revision Petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

Sub Assistant Registrar(CS)



The Additional District Munsif, Lalgudi.

+1 CC to Mr.P. THIAGARAJAN, Advocate ( SR-97712[F] dated 12/11/2019 )

+1 CC to Mr.B. JAMEEL ARASU, Advocate ( SR-97931[F]dated 13/11/2019 )

C.R.P. (NPD) (MD)No.1574 of 2013  
**11.11.2019**

VB(04.12.2019) 3P 4C