

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P. (NPD). No.3323 of 2012  
and M.P. No. 1 of 2012

T. Amudha @ Ammaniammal ... Petitioner

Vs

1.Eawari  
2.Krishnaia  
3.Commissioner,  
Municipal Office,  
Tirupattur, Vellore District. ... Respondents

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 27.02.2012 made in E.P.No.53 of 2008 in O.S.No.20 of 1998 on the file of the District Munsif Court, Tirupattur, Vellore District.

For Petitioner : Mr. Pa. Sudesh Kumar  
For Respondents : No appearance (For R1)  
Dismissed vide Court order dated  
29.08.2019 (For R2)  
Mr. S. Jaganathan, (For R3)  
Government Advocate (CS)

## **ORDER**

This Civil Revision Petition is filed to set aside the fair and final order dated 27.02.2012 made in E.P.No.53 of 2008 in O.S.No.20 of 1998 on the file of the District Munsif Court, Tirupattur, Vellore District.

2. The petitioner is decree holder in O.S.No.20 of 1998 and petitioner in E.P.No.53 of 2008. The petitioner filed the said suit for recovery of money. The suit was decreed by the judgment and decree dated 30.07.1998. The petitioner filed E.P. No.53 of 2008 for arrest and detention of the 3<sup>rd</sup> respondent for deliberate disobedience of the order of the Court. According to the petitioner, garnishee order was issued to the 3<sup>rd</sup> respondent to deduct the salary of the 1<sup>st</sup> respondent and deposit to the credit of E.P.No.53 of 2008. In spite of the receipt of notice, the 3<sup>rd</sup> respondent did not deduct the salary and committed contempt of Court and hence, sought for arrest of the 3<sup>rd</sup> respondent. The 3<sup>rd</sup> respondent filed counter affidavit and contended that the notice issued to the 3<sup>rd</sup>

respondent did not mention the amount to be deducted from the salary of the 1<sup>st</sup> respondent and deposited to the credit of E.P. In view of the same, no amount was deducted from the salary of the 1<sup>st</sup> respondent and 3<sup>rd</sup> respondent has not disobeyed the order and has not committed contempt of Court.

3. Before the learned Judge, the petitioner was examined as P.W.1 and marked notice issued through her Advocate to the 3<sup>rd</sup> respondent as Ex.P1 and acknowledgement Card as Ex.P2. The warrant of attachment was marked as Ex.C1.

4. The learned Judge considering the evidence of petitioner as P.W.1 and documents filed, dismissed E.P., holding that the 3<sup>rd</sup> respondent has not committed contempt of Court as no amount was mentioned in the warrant of attachment.

5. Against the said order of dismissal dated 27.02.2012 made in E.P.No.53 of 2008 in O.S.No.20 of 1998, the petitioner has come out with the present Civil Revision Petition.

6. The learned counsel appearing for the petitioner submitted that the amount to be deducted was mentioned in the warrant of attachment. The 3<sup>rd</sup> respondent, in order to help his employee, did not deduct and deposit the amount and evaded the order of the Court. The learned Judge without applying the principles laid down in the Order XXI Rule 46 (b) of C.P.C, erroneously, dismissed the E.P. The learned counsel appearing for the petitioner also raised a ground that if amount is not mentioned by the Court in warrant of attachment, the petitioner should not be deprived for inadvertance by the Court and prayed for allowing the Civil Revision Petition.

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7. Mr. S.Jaganathan, learned Government Advocate (CS) appearing for the 3<sup>rd</sup> respondent contended that in warrant of attachment, no amount

was mentioned and therefore, the 3<sup>rd</sup> respondent could not attach and deduct any amount and deposit to the credit of the E.P. The 3<sup>rd</sup> respondent has not disobeyed the order of the Court and not committed contempt of Court and prayed for dismissal of the Civil Revision Petition.

8. Though notice has been served on the 1<sup>st</sup> respondent and her name is printed in the cause list, there is no representation for her either in person or through counsel. The C.R.P. was dismissed by this Court on 29.08.2009 as far as the 2<sup>nd</sup> respondent is concerned.

9. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (CS) appearing for the 3<sup>rd</sup> respondent and perused the materials available on record.

10. From the materials on record, it is seen that the petitioner has filed E.P. for attachment of salary of the 1<sup>st</sup> respondent for realization of the decree dated 30.07.1998 passed in O.S. No.20 of 1998. The 3<sup>rd</sup>

respondent who is the employee of the 1<sup>st</sup> respondent did not deduct the amount and deposit into the credit of E.P., inspite of receipt of warrant of attachment. The petitioner filed present E.P. for arrest of the 3<sup>rd</sup> respondent and detain him in civil prison for disobeying the order of the Court, by committing contempt. The order of attachment was marked as Ex.C1. In the said order of attachment, in the column 'amount to be deducted' was left blank. It is the contention of the 3<sup>rd</sup> respondent that he could not deduct the amount from the salary of the 1<sup>st</sup> respondent as the amount to be deducted was not mentioned in the warrant of commission. The 3<sup>rd</sup> respondent who is the Commissioner of Municipality holding a responsible post ought to have immediately got clarification from the Court with regard to the amount to be deducted from the salary of the 1<sup>st</sup> respondent and to be deposited to the credit of E.P. The 3<sup>rd</sup> respondent - Commissioner did not act as a prudent and responsible Officer. In any event, due to passage of time and the 1<sup>st</sup> respondent would have retired from service by now, as she was aged 42 years in the year 1998, no direction could be issued to the present Commissioner for deducting any

amount and depositing into the Court. The learned Judge has considered Ex.C1 - warrant of attachment and held that the 3<sup>rd</sup> respondent has not disobeyed the order. There is no error in the said order of the learned Judge, warranting interference by this Court.

11. The learned counsel appearing for the petitioner submitted that this Court at the time of admission, by the order dated 24.09.2012, restrained the 3<sup>rd</sup> respondent from disbursing the retirement benefits of the 1<sup>st</sup> respondent for a period of three weeks from the date of receipt of a copy of that order and therefore, now seeks direction to the 3<sup>rd</sup> respondent to pay the amounts retained as per the order of this Court dated 24.09.2012.

12. The learned counsel appearing for the petitioner is not in a position to inform this Court the stage of the E.P. If E.P. is pending and no amount is disbursed by the 3<sup>rd</sup> respondent to the 1<sup>st</sup> respondent, the 3<sup>rd</sup> respondent is directed to deposit the amounts claimed by the petitioner to

the credit of E.P. from and out of the retirement benefits payable to the 1<sup>st</sup> respondent.

13. With the above direction, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

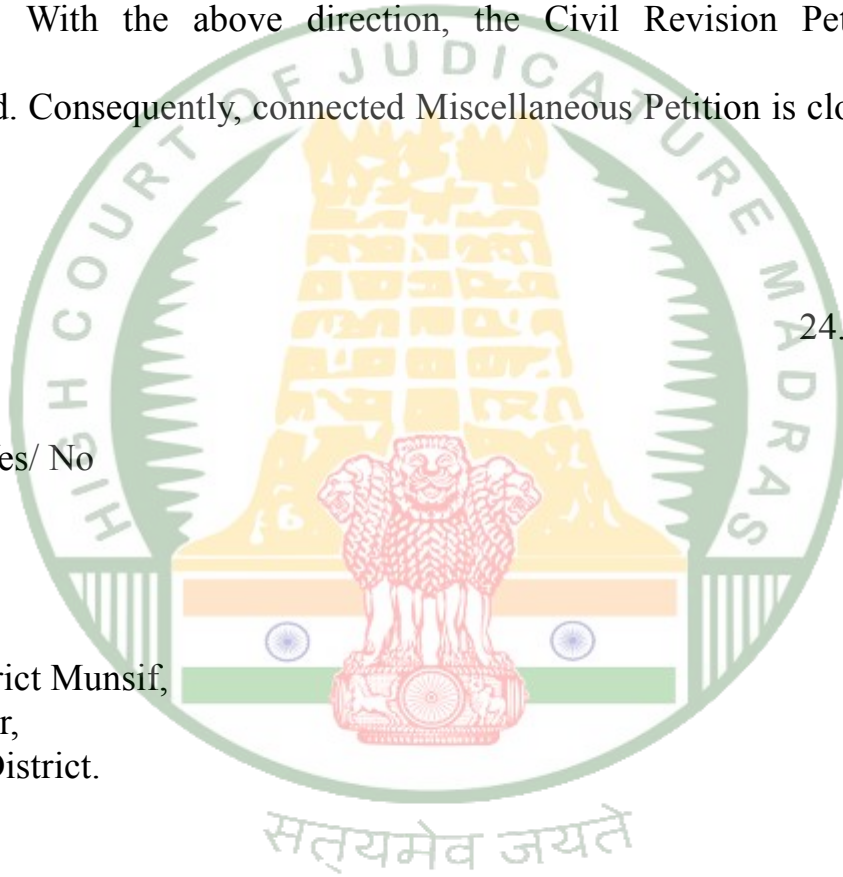
24.09.2020

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Index : Yes/ No

To

The District Munsif,  
Tirupattur,  
Vellore District.



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*C.R.P.(NPD). No.3323 of 2012*

**V.M.VELUMANI, J.**

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