

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).No.4045 of 2014
and
MP.No.1 of 2014

S.Bharathi

..Petitioner/3rd Party

Vs.

1.Kullakandan @ Perumal
2.Velachi Ammal
3.Venkatesan
4.Kuppan Rao
5.Babu Rao
6.Sekar Rao
7.Mahadeva Rao
8.Vijaya
9.Ragini
10.Jayanthi

...Respondents/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order passed by the learned District Munsif, Vaniyambadi in his proceedings in Dis.No.1425 of 2014 dated 05.07.2014 in O.S.No.256 of 2004 under Section 30 and 32 of Civil Procedure Code in O.S.No.256 of 2004 and consequently a direction for reimbursement of the penalty amount.

For Petitioner : Mr.G.Ilamurugu
For Respondents: No appearance

O R D E R

This Civil Revision Petition is directed as against the order passed by the learned District Munsif, Vaniyambadi in his proceedings in Dis.No.1425 of 2014 dated 05.07.2014 in O.S.No.256 of 2004, thereby imposed a penalty of Rs.1,000/- payable by the petitioner herein.

2. The respondents 1 to 3 filed a suit for declaration and injunction as against the respondents 4 to 10 herein. While pending suit, at the instance of the respondents 1 to 3, the

trial court issued summons under Order XVI Rule 7-A, to the petitioner herein, who is the Village Administrative Officer. The summons was served to the Tahsildar on 27.03.2014 for the hearing date fixed on 01.04.2014.

3. On a perusal of the records, the petitioner joined as Village Administrative Officer of Perumapattu Village, Vaniyambadi on 28.03.2014, thereafter she was not served with the summons by the Tahsildar to appear before the trial court on 01.04.2014. Therefore, the petitioner could not appear before the trial court. On her absence, the trial court under Section 32(c) of Civil Procedure Code imposed a fine of Rs.1,000/- on the petitioner.

4. The learned counsel for the petitioner would submit that when the trial court issued summons under Order XVI Rule 7-A and if the petitioner fails to appear before the trial court, the trial court can impose a fine only under Order XVI Rule 12 by imposing fine not exceeding Rs.500/-. When the trial court issued summons under Section 30 of CPC then only the trial court can impose penalty under Section 32, if the witness failed to appear before the trial court.

5. In the case on hand, the Tahsildar of the petitioner was served summons at the instance of the plaintiffs under Order XVI Rule 7-A, therefore, Section 32 of CPC is not attracted as against the petitioner to impose a fine. The trial court ought to have imposed a fine under Order XVI Rule 12 CPC. Therefore, the order passed by the court below is perverse and illegal and is liable to be set aside.

6. Accordingly, the order passed by the passed by the learned District Munsif, Vaniyambadi in his proceedings in Dis.No.1425 of 2014 dated 05.07.2014 in O.S.No.256 of 2004 is set aside and this Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

dsa

To

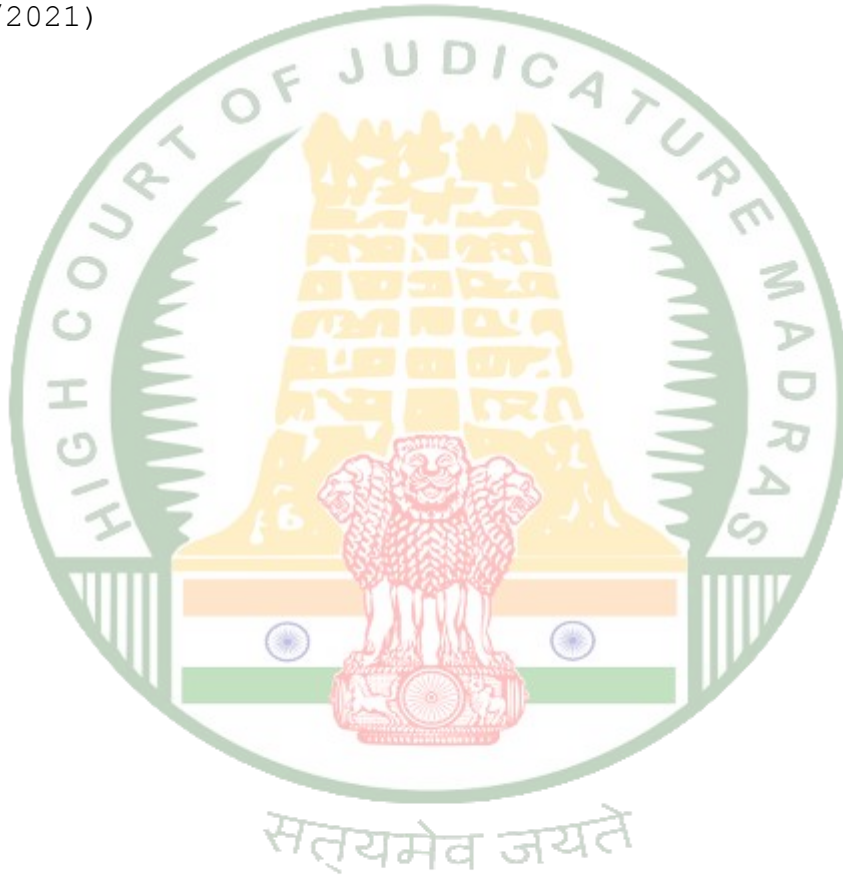
The District Munsif, Vaniyambadi

+lcc to M/s,G.Ilamurugu, Advocate, sr no. 12859

C.R.P. (PD) .No.4045 of 2014

SMI (CO)

RMP (17/04/2021)



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