

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

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

CRP.NPD.No.3930 of 2017 and CRP.NPD.No. 3018 of 2019

and

CMP.Nos.18368 of 2017 and CMP.No.19438 of 2019

CRP.NPD.No.3930 of 2017

1. Tamil Nadu State Transport Corporation Limited,
Kumbakonam,
Represented by its Managing Director,
Having office at Kumbakonam Town, Taluk & Munsif.
 2. Tamil Nadu State Transport Corporation
Employees Pension Fund Trust Chennai,
Represented by its Administrator,
Having his office at Administrative Office,
Thiruvalluvar House, Pallavan Salai,
Chennai City Civil Court Munsif.
- ..Petitioners

Vs.

Felixraj.M

..Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the order of attachment passed in E.P.No.15 of 2016 in O.S.No.25 of 2011 dated 19.09.2017 by the District Munsif Court, Nagapattinam as illegal and without jurisdiction.

For Petitioners : Mr.Vasanthanayagam for
Mr.D.Venkatachalam

For Respondent : Mr.A.Muthukumar

CRP.NPD.No.3018 of 2019

1. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam,
Having office at Kumbakonam Town & Munsif.

2. Tamil Nadu State Transport Corporation
Employees Pension Fund Trust Chennai,
Represented by its Administrator,
Having his office at Administrative Office,
Thiruvalluvar House, Pallavan Salai,
Chennai City Civil Court Munsif.

..Petitioners

Vs.

Felixraj.M

..Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order 15.07.2019 made in I.A.No.35 of 2017 in unnumbered A.S.No. of 2017 on the file of the Sub Judge, Nagapattinam.

For Petitioners : Mr.Vasanthanayagam for
Mr.D.Venkatachalam

For Respondent : Mr.A.Muthukumar

COMMON ORDER

These respective Civil Revision Petitions are directed as against the order of attachment passed in E.P.No.15 of 2016 in O.S.No.25 of 2011 dated 19.09.2017 on the file of the District Munsif Court, Nagapattinam and order and decretal order 15.07.2019 passed in I.A.No.35 of 2017 in unnumbered A.S.No. Of 2017 on the file of the learned Sub Judge, Nagapattinam.

2. In both the Civil Revision Petitions, the petitioners are the defendants in the suit filed by the respondent for mandatory injunction, directing the respondents to calculate 15 years of his past services at Boat Building Yard, Nagapattinam and the pensionary benefits payable to him as per G.O.Ms.No.86 Animal Husbandary & Fisheries (FSV) Department dated 14.08.2003.

3. After filing written statement by the first petitioner herein, the suit was decreed by the judgment and decree dated 17.04.2015. Thereafter, the respondent filed an execution petition in E.P.No.15 of 2016. In the

execution petition, the petitioners were served notice and they filed vakalat on 28.06.2016. In fact, they also filed a counter on 18.10.2016 in E.P.No.15 of 2016. While pending the execution petition on 03.03.2017, the petitioners filed an appeal suit with the delay of 700 days in filing the appeal suit. The condone delay petition was dismissed and the execution petition also ordered in favour of the respondent. Aggrieved by the same, the above Civil Revision Petitions filed for the petitioners herein.

4. On a perusal of the records, it reveals that the petitioners have filed written statement in the suit filed by the respondent herein and vehemently contested the suit. It was decreed in favour of the respondent, thereby, directing the petitioners to calculate the past services of the respondent at Boat Building Yard, Nagapattinam as per the said Government Order and directed to pay due pension from the date of his due within three months from the date of decree. After, the decree, the respondent filed an execution petition in E.P.No.15 of 2016 dated 21.04.2016. In the execution petition, the Execution Court ordered notice to the petitioners and the same was duly received by them. On receipt of the notice they also filed an vakalat on 28.06.2016 and they also filed the Counter in the execution petition on

18.02.2016. Therefore, they had knowledge about the execution petition as well as the judgment and decree passed in the suit against them. Even then the petitioners did not prefer any appeal suit as against the judgment and decree dated 17.04.2015. In the execution petition, when the execution Court was about to pass orders, at that juncture on 03.03.2017, the petitioners preferred an appeal suit with the delay of 700 days.

5. From the affidavit filed in support of condone the delay petition, it is revealed that after the judgment and decree passed by the trial Court, the relevant papers mixed with other files and as such, there was a delay in filing the appeal suit. When the petitioners duly appeared before the Execution Court and also filed their counter on 18.10.2016, they cannot say that the relevant papers were mingled with the other files. Therefore, they failed to state valid reasons for the delay and they also failed to explain the delay for each and every day with sufficient costs. The respondent is now age about 75 years and he is running from pillar to post without seeing the fruits of the decree. Therefore, the trial Court rightly dismissed the petition to condone the delay that too with costs of Rs.5,000/-. As such, this Court finds no irregularity or infirmity in the order passed by the Court below.

6. Accordingly, these Civil Revision Petitions are dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

05.02.2021

Speaking/Non-speaking order

Internet : Yes/No

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To

1. The District Munsif Judge, Nagapattinam.
2. The Sub Judge, Nagapattinam.



WEB COPY

G.K.ILANTHIRAIYAN,J.

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and
CRP.NPD.No. 3018 of 2019**

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