



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED :15.07.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

**C.R.P. (MD) (NPD) No.1586 of 2014**

Pappathi

... Petitioner

-vs-

Madhu Sri Akkabai Ammani Chatram,  
Rep. Its Trustee Aananthakumar  
by his Power Agent Sadhasivarao,  
Pattukkottai Town and Taluk and Munsif. ... Respondent

**PRAYER:** This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order passed in C.M.A.No.1 of 2012 on the file of Sub Court, Pattukkottai dated 12.03.2014 confirming the fair and decreetal order passed in I.A.No.524 of 2010 in O.S.No.92 of 2003 on the file of District Munsif Court, Pattukottai dated 29.11.2010.

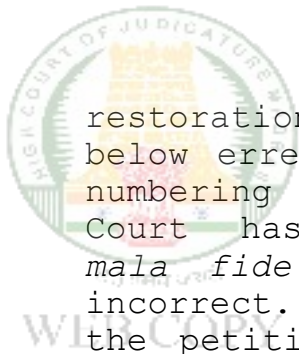
For Petitioner : Mr.M.R.S.Prabhu  
For Respondent : Mr.Niranjana S.Kumar  
for Mr.V.Balaji

**ORDER**

This Civil Revision Petition has been filed to set aside the fair and decreetal order passed in C.M.A.No.1 of 2012 on the file of Sub Court, Pattukkottai dated 12.03.2014 confirming the fair and decreetal order passed in I.A.No.524 of 2010 in O.S.No.92 of 2003 on the file of District Munsif Court, Pattukottai dated 29.11.2010.

2. The facts of the case, in a nutshell, are that the petitioner is the plaintiff and the respondent is the defendant. The suit in O.S.No.92 of 2003 was filed for permanent injunction. Due to non-appearance of the petitioner, the said suit was dismissed for default on 09.11.2005. In order to restore the said suit, the petitioner has filed I.A.No.524 of 2010 and the same was dismissed on 29.11.2010. Aggrieved against the same, the petitioner has filed an appeal in C.M.A.No.1 of 2012 and the same was also dismissed. Hence, the present revision has been filed.

3.The learned counsel for the Petitioner has submitted that since the petitioner went to her brother house for celebrating Deepavali festival, where she was suffering from severe fever and stomach pain, she was not able to appear before Courts below. The Courts below failed to consider the reasons stated for the absence of the petitioner. The petitioner filed the application for



restoration of suit within 12 days and it was in time and the Courts below erred in observing that the petitioner was causing delay in numbering the petition and bringing it for orders and the trial Court has found that the intention of the petitioner is *mala fide* in getting the repeated return of the petition is incorrect. The reasons assigned by the Courts below for dismissing the petition are not sustainable and baseless and it is neither willful nor wanton and that in the interest of justice, the Petitioner may be given an opportunity to contest the suit, by allowing this Civil Revision Petition.

4.The learned counsel for the respondent has submitted that the petitioner has not filed any documentary proof in support of the claim of ill health and the main suit was filed for permanent injunction. Though the petition was filed on 09.11.2005 and it has been numbered only on 05.07.2010 and the petitioner filed this petition only with an intention to grab the money from the respondent's charitable trust. Hence, the revision is liable to be dismissed.

5.This Court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6.Admittedly, the application was filed before the Court below on 21.11.2005 within 12 days from the date of dismissal of the suit and the same was returned for difference reasons and it was numbered after about four and half years. The petitioner has not taken diligent steps to number the petition and only with an intention to drag on the proceedings and to cause harassment to the trust, the petitioner has filed the application. If the intention of the petitioner is really *bona fide*, she should have taken immediate steps to number the application. Considering the said aspects, the Court below had rightly dismissed the application, by the impugned order, which warrants no interference.

7.In fine, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

cp/msa



To

1. The Subordinate Judge, Pattukkottai

2. The District Munsif, Pattukottai

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate ( SR-22802[F] dated 15/07/2021 )

+1 CC to M/s.V.K.VIJAYARAGHAVAN, Advocate ( SR-22986[F] dated 16/07/2021 )

**C.R.P. (MD) (NPD) No.1586 of 2014**

**15.07.2021**

**CM**(CO)

LR (02.08.2021) 3P 5C