



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.2515 of 2014

and

C.M.P(MD) No.8005 of 2018

Courtallam Selection Grade in,
Panchayat through its,
Executive Officer,
Courtallam,
Courtallam Giramam,
Tenkasi Taluk,
Tirunelveli District.

... Petitioner/Petitioner/Plaintiff

Vs.

1.Sivagnanaraja
2.Iyyadurai

... Respondents/Respondents/Defendants

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records in I.A.No.15 of 2011 in unnumbered original suit on the file of the learned Principal District Judge, Tirunelveli dated 13.11.2013 and to set aside the same.

For Petitioner	: Mr.J.Gunaseelan Muthiah
For 1 st Respondent	: Mr.G.Prabhu Rajadurai
For 2 nd Respondent	: No Appearance

ORDER

The plaintiff, which is the Courtallam Selection Grade Town Panchayat through its Executive Officer, had filed the above civil revision petition challenging the order passed in I.A.No. 15 of 2011 in unnumbered suit, in and by which, the learned Principal District Judge, Tirunelveli, has dismissed the application filed by the petitioner herein for condoning the delay of 367 days in representing the plaint.

2.The order appears to have been passed by the learned Judge on the ground that the plaintiff's money claim had been presented with the Court fee of Rs.2,50 000/- on 24.10.2008 with the deficit court fee of Rs.1,125 /- and the plaint would show that the last cause of action as on 21.03.2006. The limitation for recovery of money



would expire on 31.03.2009. The deficit court fee of Rs.1,125/- has been made good when the plaint was re-presented on 03.02.2011. Therefore, the Court held that the deficit court fee has been paid only after the period of limitation without an application under Section 149 of CPC and therefore, the re-representation petition had to necessarily be dismissed.

3.The learned counsel for the petitioner would submit that the very premise on which the application has been dismissed is contrary to the provision of Section 345 of the District Municipalities Act, which provides for a limitation period of 12 years for a suit for recovery of money by the municipalities. The learned counsel appearing on other side would also fairly concede the above point.

4.Section 345 of the District Municipalities Act reads as follows:-

345.Limitation for recovery of dues:- No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the municipal council under this Act after the expiration of a period of [twelve years] from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

5.This provision makes it very clear that the limitation for a suit to be filed by municipalities for recovering money, is 12 years . Therefore, on the date on which the deficit court fee had been paid, the suit was very much within the limitation period and the order of the learned Judge, therefore is contrary to the provision of the Act.

6.In these circumstances, this Civil Revision Petition is allowed and the order dated 13.11.2013 passed in I.A.No.15 of 2011 is set aside. The learned Principal District Judge, Tirunelveli, shall take steps to number the suit as expeditiously as possible, considering the fact that it is public money that is involved. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

cp



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The Principal District Judge,
Tirunelveli

+1 CC to M/s.J.GUNASEELANMUTHIAH, Advocate (SR-39189[F] dated 16/12/2021)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-39231[F] dated 17/12/2021)

C.R.P (MD)No.2515 of 2014

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MGJ(12.01.2022) 3P 4C