



C.R.P(MD)Nos.994 and 995 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

**C.R.P(MD)Nos.994 and 995 of 2024
and
C.M.P(MD)No.5396 of 2024**

C.Maheswari

... Petitioner / Defendant
in both CRPs

Vs

G.Kavitha

... Respondents / Plaintiff
in both CRPs

Prayer in **C.R.P(MD)No.994 of 2024** : This Civil Revision Petition is filed under Section 115 of C.P.C., to call for the entire records pertaining to E.A.No.1 of 2021 in E.P.No.42 of 2020 in O.S.No.58 of 2013 dated 04.10.2021 by the learned Subordinate Judge, Sattur, Virudhunagar District and to set aside the fair and decreetal order.

Prayer in **C.R.P(MD)No.995 of 2024** : This Civil Revision Petition is filed under Section 115 of C.P.C., to call for the entire records pertaining to I.A.No.2 of 2021 in E.P.No.42 of 2020 in O.S.No.58 of 2013 dated 04.10.2021 by the learned Subordinate Judge, Sattur, Virudhunagar District and to set aside the fair and decreetal order.



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For Petitioner : Mr.C.M.Arumugam

For Respondent : Ms.S.Prabha

(in both CRPs)

COMMON ORDER

These Civil Revision Petitions are filed to call for the entire records pertaining to I.A.Nos.1 and 2 of 2021 in E.P.No.42 of 2020 in O.S.No.58 of 2013 dated 04.10.2021 by the learned Subordinate Judge, Sattur, Virudhunagar District and to set aside the fair and decreetal order.

2. The facts in brief is that the suit in O.S.No.58 of 2013 was filed by the respondent herein. The revision petitioner herein remained ex parte before the trial Court. So ex parte decree was passed on 08.09.2014. To execute the decree, the respondent herein filed E.P.No. 42 of 2020. Pending the execution proceedings, I.A.No.1 of 2021 was taken out by this revision petitioner under Section 5 of the Limitation Act to condone the delay of 1581 days in filing the petition to set aside the ex parte decree. Along with the petition, he filed I.A.No.2 of 2021, to stay



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further proceedings in E.P.No.42 of 2020, pending disposal of the I.A.No.1 of 2021. Both were taken up by the same Court and came to be dismissed. Against which the present revision petitions are preferred.

3. At the time of hearing, learned counsel for the revision petitioner has mentioned a mistake committed by the trial Court in not considered Ex.P3 produced by them. Even in the annexure, only two documents are mentioned and important document namely Ex.P3 showing the medical treatment of the petitioner's husband was not considered. He is also drawing the attention of this Court to the finding recorded by the trial Court. When there is a mistake apparent on the face of the record in not considering Ex.P3, according to him the matter may be remitted back to the trial Court for consideration of the omitted document. A copy of the document is also produced before this Court.

4. Learned counsel for the respondent has no objection in remitting back the matter in view of the mistake.



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5. Therefore, these Civil Revision Petitions are allowed and the order passed in I.A.Nos.1 and 2 of 2021 in E.P.No.42 of 2020 in O.S.No. 58 of 2013 dated 04.10.2021 by the learned Subordinate Judge, Sattur, Virudhunagar District, is set aside. The matter is remitted back to the trial Court. The trial Court shall restore the I.A.Nos.1 and 2 of 2021 to its file and proceed to dispose the same on its own merits by considering all the documents and by offering due opportunity to both sides. Let the process be completed within a month, considering the oldness of the suit. No costs. Consequently, connected miscellaneous petition stands closed.

02.12.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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- 1.The Subordinate Judge, Sattur, Virudhunagar District.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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ORDER
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and
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