



C.R.P.(NPD)(MD)No.80 of 2020

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

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**DATED : 21.03.2024**

**CORAM**

**THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR**

**C.R.P.(NPD)(MD)No.80 of 2020**

Eronimas alias Jebamoni Dhas

... Petitioner

**Vs.**

- 1.The Proprietor,  
Kumutham Reporter Mangazine,  
Kumutham Publications Private Limited,  
Old No.151, New No.306,  
Purasaivakam High Way, Chennai – 600 010.
- 2.The Author,  
Kumutham Reporter Magazine,  
Kumutham Publications Private Limited,  
Old No.151, New No.306,  
Purasaivakam High Way, Chennai 600 010.
- 3.The Publisher,  
Kumutham Publications Private Limited,  
Old No.151, New No.306,  
Purasaivakam High Way,  
Chennai 600 010.
- 4.The Printer,  
Kumutham Publications Private Limited,  
Old No.151, New No.306,  
Purasaivakam High Way,  
Chennai 600 010.



C.R.P.(NPD)(MD)No.80 of 2020

5.C.Sundar Raj

6.Mrs.Rajeswari

7.Mr.Rethina Mony

8.Mrs.Mary Helen

... Respondents

**PRAYER:** Petition filed under Section 115 of C.P.C. to set aside the order and decretal order passed in I.A.No.695 of 2018 in O.S.No.133 of 2009 dated 17.09.2019 on the file of Subordinate Judge, Padmanabhapuram.

For Petitioner : Mr.H.Thayumanaswamy

For Respondents : Mr.K.Mahendran for R1 to R4  
Mr.S.Vanchinathan for R6 & R7  
No Appearance for R8

### **ORDER**

The suit in O.S.No.133 of 2009 on the file of the learned Subordinate Judge, Padmanabhapuram was filed by the petitioner herein claiming damages against the respondents to the tune of Rs.5 lakhs. During the pendency of the said suit, the petitioner filed an application in I.A.No.91 of 2012 seeking amendment of the pleadings in the suit under Order 6 Rule 17 of C.P.C., which came to be dismissed by the learned trial Court on



29.06.2016. Aggrieved by the said order, the petitioner approached this Court by filing a Civil Revision Petition in C.R.P.(PD)(MD)No.1955 of 2016. During the pendency of the said Civil Revision Petition before this Court, the main suit itself was dismissed for default on 01.08.2016. However, without noticing the said fact, this Court, by an order dated 06.09.2018, allowed the said Civil Revision Petition. Thereafter, the petitioner herein filed an application under Order 9 Rule 7 of C.P.C., seeking restoration of the suit that was dismissed for default on 01.08.2016 along with the application for condoning the delay of 736 days in filing an application under Order 9 Rule 7 of C.P.C. The said condone delay application was dismissed by the trial Court, on the ground that the petitioner failed to explain the delay nor able to show sufficient cause for condoning the said delay, by an order dated 17.09.2019 passed in I.A.No. 695 of 2018 in O.S.No.133 of 2009. Aggrieved by the said order, the petitioner approached this Court by filing the present Civil Revision Petition.

2. After hearing the matter for quit some time, the learned counsel for the petitioner, while making a request for withdrawal of the Civil Revision



C.R.P.(NPD)(MD)No.80 of 2020

Petition, sought indulgence of this Court to direct refund of the Court fee paid by the petitioner at the time of filing O.S.No.133 of 2009.

3. Considering the fact that the said suit was filed for damages against the respondents herein and the petitioner is now making a request for refund of the Court fees while seeking permission to withdraw the Civil Revision Petition, this Court is of the considered view that there cannot be any impediment for granting such relief.

4. Accordingly, this Civil Revision Petition is dismissed as withdrawn with a further direction to the learned trial Court to refund the entire Court fees paid by the petitioner while filing O.S.No.133 of 2009, on filing an appropriate application by the petitioner. In case, if any such application is filed, the same shall be disposed of as expeditiously as possible. There shall be no order as to costs.

**21.03.2024**

NCC : Yes/No  
Index : Yes/No

vsm

4/6



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To

- 1.The Subordinate Judge, Padmanabhapuram
- 2.The Record Keeper,  
V.R.Section,  
Madurai Bench of Madras High Court, Madurai.



C.R.P.(NPD)(MD)No.80 of 2020



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C.R.P.(NPD)(MD)No.80 of 2020

**MUMMINENI SUDHEER KUMAR, J.**

vsm

**C.R.P.(NPD)(MD)No.80 of 2020**

**21.03.2024**