



C.R.P.(MD)No.940 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.940 of 2024

M/s.Sri Guru Sankar Traders,
Through its Sole Proprietor,
Sivakumar M.Ghanti,
Nehru Gunj, Gulbarga,
Karnataka State.

... Petitioner

Vs.

1.District Revenue Officer,
Virudhunagar District,
Virudhunagar.

2.M/s.S.M.S.Traders,
Through its Proprietor,
Door No.35, East Masi Street,
Madurai.

3.V.Mayileri,
Dhall Mill in Amirtharani Traders,
Door No.15/7, Thoothikulam Road,
Aalangulam, Tirunelveli District.

4.The Tamil Nadu Government,
Through District Collector,
Virudhunagar.

... Respondents



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PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the order, dated 14.09.2016, passed in I.A.No.166 of 2014 in O.S.No.107 of 2003 on the file of the Sub Court, Virudhunagar.

For Petitioner : Mr.A.Sivaji
For R1 and R4 : Mr.V.Om Prakash
Government Advocate
For R3 : Mr.H.Arumugam

ORDER

The present civil revision petition is filed by the plaintiff in the suit against the order, dated 14.09.2016, passed in I.A.No.166 of 2014 in O.S.No.107 of 2003 on the file of the Sub Court, Virudhunagar.

2. The petitioner herein is the plaintiff in O.S.No.107 of 2003 and the suit is filed for declaration, permanent injunction and mandatory injunction but the plaintiff could not appear on the date of hearing. Hence, the suit was dismissed for non-prosecution. Thereafter, I.A.No.166 of 2014 was filed with a huge delay of 3320 days and the said I.A., was dismissed. The reason cited in the affidavit is that there was no communication to the plaintiff about the date of hearing, further



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the Advocate who appeared for the plaintiff died. Further the plaintiff was not aware of the death of the Advocate and the Advocate office also had not contacted the plaintiff and informed about the death of the Advocate. Thereafter with earnest efforts, he had contacted the concerned Advocate's office. Thereafter, he came to know that the suit was dismissed for default. In the meanwhile, a delay of 3320 days occurred.

3. This Court is convinced of the reason stated in the affidavit. It is not the mistake of the plaintiff, further the death of the advocate was not known to the plaintiff and the Advocate's office also did not communicate the date of hearing and the death of the advocate to the plaintiff and hence this Court is inclined to allow the present civil revision petition. But the delay is huge, hence the delay of 3320 days is condoned on payment of cost of Rs.5,000/- payable by the petitioner hearing to the Learned Government Advocate appearing for respondents 1 and 4 within a period of one week from the date of receipt of a copy of this order. On such payment, the present civil revision petition is allowed. The Sub Court, Virudhunagar, is directed to take the original suit on file and hear the suit on



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merits. After giving sufficient opportunities to all the parties. The suit may be completed within a period of one year from the date of receipt of a copy of this order.

4. With the above said directions, the civil revision petition is allowed. No costs.

25.10.2024

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

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To

- 1.District Revenue Officer,
Virudhunagar District,
Virudhunagar.
- 2.District Collector,
Virudhunagar.
- 3.The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.
- 4.Sub Court,
Virudhunagar.



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S.SRIMATHY, J.

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