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C.R.P.No.2919 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

**C.R.P.No.2919 of 2025
and C.M.P.No.16452 of 2025**

Selvaraj
S/o.Thandavan @ Thandan,
Merkku Street, Akkichettipalayam Village, Palaniyapuri Post,
Attur Taluk, Salem District.

Petitioner(s)

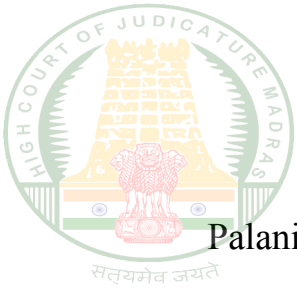
Vs

1.Indira Selvam
W/o.Perumal,
Thaneerpanthalakadu, Moolapalli Post, Namagiripettai,
Rasipuram Taluk, Namakkal District.

2.Thandavan @ Thandan
S/o.Late Periyannagonder,
Merkku Street, Akkichetipalayam Village,
Palaniyapuri Post, Attur Taluk, Salem District.

3.Ajithkumar
S/o.Selvaraj,
Merkku Street, Akkichetipalayam Village,
Palaniyapuri Post, Attur Taluk, Salem District.

4.Aravinth
S/o.Selvaraj,
Merkku Street, Akkichetipalayam Village,



C.R.P.No.2919 of 2025

Palaniyapuri Post, Attur Taluk, Salem District.

5.Hamsha

W/o.Selvaraj,
Merkku Street, Akkichetipalayam Village,
Palaniyapuri Post, Attur Taluk, Salem District.

6.Selvi @ Kalaiselvi

W/o.Srinivasan,
Kandasamy Puthur, Arasnatham Village,
Attur Taluk, Salem District.

7.Pannerselvam

S/o.Periyasammy,
Pudu Udayampatti, Appamasamuthiram,
Attur Taluk, Salem District.

8.Subramaniam

S/o.Ponnusamy,
Akkichettipalayam Village and Palaniyapuri Post,
Attur Taluk, Salem District.

9.Chithamparam

S/o.Mannathi @ Erusappa Udayar,
Akkichettipalayam Village and Palaniyapuri Post,
Attur Taluk, Salem District.

10.Pavaayee

W/o.Kumaravel,
Kattukottai Paithur Village and post, Taluk, Salem District.

11.The District Collector, Salem.

12.The Tahsildar

Attur Post and Taluk, Salem District.

13.The Village Administrative Officer,

Akkichettipalayam Village, Palaniyapuri Post,



C.R.P.No.2919 of 2025

Attur Taluk, Salem District.

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14.The Sub Registrar,
Attur Post and Taluk, Salem District.

Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 07.02.2025 passed in I.A.No.6 of 2024 in I.A.No.4 of 2024 in O.S.No.206 of 2021 on the file of the Subordinate Court, Attur, Salem District.

For Petitioner(s) : Mr.SP.Chockalingam

For R1 : Mr.Dalit Tiger C.Ponnusamy

For RR 11 to 14: Mrs.R.Anitha, Special Government Pleader

ORDER

Challenging the order dated 07.02.2025 passed in I.A.No.6 of 2024 in I.A.No.4 of 2024 in O.S.No.206 of 2021 on the file of the Subordinate Court, Attur, Salem District, the revision petitioner/second defendant has preferred the present civil revision petition.

2. For the sake of convenience, the parties will be referred to as



C.R.P.No.2919 of 2025

per their rankings in the trial Court.

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3. The plaintiff/Indira Selvam has filed the suit in O.S.No.206 of 2021 seeking the relief of declaration and for permanent injunction as against the defendants. The suit had been posted on 09.11.2022 for filing written statement by the defendants. For non-appearance of the plaintiff, the suit was dismissed for default on 12.03.2024. Thereafter, the plaintiff/Indira Selvam filed an application in I.A.No.4 of 2024 to restore the suit in O.S.No.206 of 2021.

4. After hearing both sides, the trial Court allowed the application on condition that Indira Selvam/plaintiff should pay a sum of Rs.2,000/- to the respondents 2 to 6 on or before 05.11.2024, failing which, the application would be dismissed automatically and adjourned the case on 06.11.2024. Thereafter, Indira Selvam/plaintiff has filed I.A.No.6 of 2024 in I.A.No.4 of 2024 in O.S.No.206 of 2021 under Sections 148 and 151 CPC to enlarge the time for payment of cost to the respondents 2 to 6 stating that due to his lack of knowledge, he had understood that order will be passed on 06.11.2024 and cost will be paid later to the respondents 2 to 6.



C.R.P.No.2919 of 2025

WEB COPY

5. Upon hearing either side, the trial Court *vide* order dated 07.02.2025 allowed the application in I.A.No.6 of 2024 on payment of Rs.2,000/- to the respondents on or before 21.02.2025 and thereafter, time would be extended in I.A.No.4 of 2024, failing which, the application would be dismissed.

6. Aggrieved over the same, the revision petitioner/second defendant has preferred the present civil revision petition.

7. The learned counsel appearing for the revision petitioners/second defendant would submit that the trial Court has failed to appreciate that the Indira Selvam/plaintiff was a rank defaulter and does not worth the empathy or consideration of the Court. Further, the trial Court has failed to understand that the petition filed by Indira Selvam/plaintiff under Sections 148 and 151 CPC seeking enlargement of time for payment of cost is unsustainable in law. The reasons assigned in the application are not at all acceptable and the same is untenable. To strengthen his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in ***P.Shyamala vs.***



C.R.P.No.2919 of 2025

WEB COPY

Gundlur Masthan reported in **AIR 2023 SC 1224** to show that the Court has to see all the attendant circumstances including if the vendee has conducted himself in a reasonable manner under the contract of sale. Another judgment of this Court in **G.Kesavan vs. B.C.Raman** reported in **(2014) 1 MLJ 862** to show that there must be a satisfactory reasons or convincing reason in the affidavit to entertain the application. Yet another judgment of this Court in **Kuthalingam vs. T.S.Rama Narayana and Others** reported in **(2010) 4 MLJ 495** to show that the reasons adduced in the affidavit have not been established.

8. *Per contra*, the learned counsel appearing for the first respondent/plaintiff/Indira Selvam would submit that as directed by the trial Court, cost has been paid on 20.02.2025, but, the revision petitioner/second defendant has refused to receive the same and thereafter, the first respondent/plaintiff/Indira Selvam approached the trial Court to pay the amount through the bank. In order to meet the ends of justice, the trial Court has allowed the application and there is no reason to interfere with the same.

9. It is seen from the records that the suit has been filed for



C.R.P.No.2919 of 2025

WEB COPY

declaration and permanent injunction and due to non-appearance the plaintiff, the suit was dismissed for default on 12.03.2024, challenging which, Indira Selvam/plaintiff has filed an application in I.A.No.4 of 2024 under Order 9 Rule 9 CPC to restore the suit in O.S.No.206 of 2021 and the same was allowed on 18.10.2024 on condition that Indira Selvam/plaintiff should pay a sum of Rs.2,000/- to the respondents 2 to 6 on or before 05.11.2024, failing which, the application would be dismissed automatically and adjourned the case on 06.11.2024. Thereafter, Indira Selvam/plaintiff has filed I.A.No.6 of 2024 in I.A.No.4 of 2024 in O.S.No.206 of 2021 under Sections 148 and 151 CPC to enlarge the time for payment of cost to the respondents 2 to 6 stating that due to his lack of knowledge, he had understood that order will be passed on 06.11.2024 and cost will be paid later to the respondents 2 to 6. Considering the reasons stated by Indira Selvam/plaintiff, the trial Court in order to meet the ends of justice by exercising its inherent power, allowed the application.

10. This Court is of the opinion that in order to decide the issue pending between the parties and in the interest of justice, an opportunity can be provided to Indira Selvam/plaintiff and I find no reason to interfere with the order of the Court below.



C.R.P.No.2919 of 2025

With the above observations, this civil revision petition stands

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dismissed. No costs. Connected C.M.Ps. are closed.

03-09-2025

nsd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes; Neutral Citation: Yes/No

To

The Subordinate Judge,
Attur, Salem District.



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C.R.P.No.2919 of 2025

M.JOTHIRAMAN J.

nsd

C.R.P.No.2919 of 2025

03.09.2025