



WEB COPY

C.R.P.No..



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.3345 of 2024

Amarar K Balathandayuthapuram
Co~operative House Building Society
Represented by its President Vadivel

... Petitioner

-VS-

1.The President
Amarar K Balathandayuthapuram
Co~operative House Building Society
Having Office at
D.No.72, Balathandayuthapuram
Peelamedu
Coimbatore ? 641 004

2.The Deputy Registrar of Co~operative Housing Society
Having office at
Chinthamani Compound
North Coimbatore
R.S.Puram, Coimbatore ? 641 002

3.The Commissioner
Coimbatore City Municipal Corporation
Having office at
Big Bazaar Street
Town Hall
Coimbatore ? 641 001

... Respondents

Prayer: Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair order dated 11.03.2024 made in I.A.No.1 of 2023 in O.S.No.1327 of 2017 on the file of II Additional District Munsif, Coimbatore



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For petitioner : Ms.K.Indupriya
For R1 : Mr.V.Anandhamoorthy
For R2 & R3 : Mr.D.Gopal
Govt. Advocate

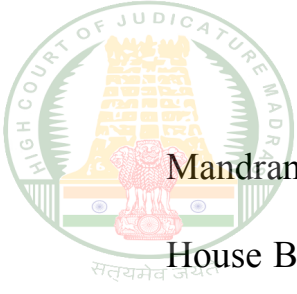
ORDER

This matter is listed today under the caption “For Being Mentioned” at the instance of the petitioner.

2. Learned counsel for the petitioner submitted that in the cause title, the name of the 1st respondent has been wrongly typed as 'Amarar K Balathandayuthapuram Co-operative House Building Society' instead of 'Amarar K Balathandayuthapuram Colony Naarpani Mandram, Reg.No.32/91' and to that extent alone, the order of this Court requires necessary modification

3. On comparison of the cause title typed in the order with that of the affidavit filed in support of the petition, it is seen that the error is apparent, as there is an error in the name of the 1st respondent.

4. In view of the above, Registry is directed to incorporate the correct name of the 1st respondent as 'Amarar K Balathandayuthapuram Colony Naarpani



C.R.P.No..



Mandram, Reg.No.32/91' in lieu of 'Amarar K Balathandayuthapuram Co-operative House Building Society' and issue a fresh copy of the order to the parties forthwith.

Except above, in all other respects, the order dated 08.01.2025 remains unaltered.

04.04.2025

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CRP.No.3345 of 2024

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Co-operative House Building Society
Represented by its President Vadivel

... Petitioner

Versus

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Co-operative House Building Society
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For petitioner : Ms.K.Indupriya
For respondents : Mr.V.Anandhamoorthy for R1
Mr.D.Gopal for R2 & 3
Government Advocate

ORDER

Challenging the impugned order rejecting the application filed to condone the delay of 1035 days in filing the application to set aside the exparte decree, the present revision has been filed.

2. The suit has been originally filed by the respondent to declare the eviction proceeding initiated by 3rd defendant dated 09.06.2017 under Sections 258, 441 of Coimbatore City Municipal Act as null and void and consequently for a permanent injunction. The suit has been decreed exparte for not filing written statement on 18.12.2019. The said exparte decree is sought to be set aside on the ground that the counsel appeared for the revision petitioner went to abroad and not informed the status of the case, that apart, since, the lock-down was imposed due to the Covid pandemic, the application could not be filed immediately. The same was opposed by the respondents on the ground that no sufficient cause has been shown. The Trial Court had dismissed the application vide the impugned order. Challenging the same, the present revision has been filed.



3. The learned counsel for the petitioner submitted that the petitioner was not aware of the status of the case, since the counsel went to abroad and lockdown was imposed due to Covid pandemic. Hence, seeks for liberal approach to contest the suit on merits.

4. The learned counsel for the respondent submitted that petitioner has not filed the written statement, despite several opportunities. Therefore, the suit was decreed exparte. Hence, seeks for dismissal of this revision.

5. Heard both sides and perused the materials placed on record.

6. Though exparte decree has been passed on 18.12.2019, immediately, thereafter, due to the covid pandemic lockdown was imposed. These facts has not been disputed. The suit itself is filed challenging the action of the Corporation in respect of the public properties and considering the issue involved in the main suit and the public properties is also in question, this Court is of the view that an opportunity should be given to the parties to adjudicate the matter on its own merits. It is relevant to note that the Hon'ble Apex Court in the case of *Robin Thapa vs. Rohit Dora* reported in (2019) 7 SCC 359 held that a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be



C.R.P.No..



terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits. Therefore, this Court is inclined to grant one more opportunity to contest the suit on merits by the parties.

7. Accordingly, this Court grants one more opportunity to the revision petitioner to contest the matter, on merits, subject to payment of costs of Rs.10,000/- payable to the plaintiff within a period of one month from today. On such payment, exparte decree dated 18.12.2019 be set aside and the written statement shall be filed within a period of 15 days thereafter. It is made clear that the Trial Court shall proceed with the main matter and dispose of the same within a period of six months thereafter. In the event, costs is not received by the plaintiff, the same may be deposited in the credit of the suit.

8. In view of the above, this revision stands disposed of. No costs.

08.01.2025

Index : Yes / No
Speaking/non speaking order
dhk



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To,

1. The II Additional District Munsif
II Additional District Munsif Court
Coimbatore

2. The President
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Co-operative House Building Society
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N. SATHISH KUMAR, J.
dhk

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