



C.R.P(MD)No.1259 of 2012 &
C.M.A(MD)No.797 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2025

CORAM:

THE HONOURABLE MS.JUSTICE R. POORNIMA

C.R.P(MD)No.1259 of 2012 & C.M.A(MD)No.797 of 2012
and
M.P(MD)Nos.1 of 2012, 1 of 2012 & 2 of 2012

C.R.P(MD)No.1259 of 2012

1.M/s. Jaya Vairavan Mills Private Limited,
Perunali,
Represented by its Managing Director
A.P. Kalimuthu.

2.A.P.Kalimuthu

.. Petitioners/petitioners/respondents

Vs.

1. The Assistant Electrical Engineer (Distribution),
Tamil Nadu Electricity Board,
Perunali,
Ramanathapuram District.
2. The Executive Engineer (Dispensation),
Tamil Nadu Electricity Board,
Kamuthi,
Ramanathapuram District.



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3. The Assistant Executive Engineer,
(M.R.D.) Tamil Nadu Electricity Board,
Paramakudi, Ramanathapuram District.

4. The Superintendent Engineer
(R.E.D.P), Tamil Nadu Electricity Board,
Ramanathapuram.

..Respondents /respondents/ appellants

PRAYER: This Civil Revision Petition is filed under Section 227 of Constitution of India to allow the Civil Revision Petition and set aside the Fair and Decreetal Order dated 04.04.2012 made in I.A.No.30 of 2012 in A.S.No.54 of 2010 on the file of the Subordinate Court, Paramakudi.

For Petitioners : Mr.M/s.A.V.Arun

For Respondents : Mr.B. Ramanathan

Additional Government Pleader

C.M.A(MD)No.797 of 2012

1.M/s. Jaya Vairavan Mills Private Limited,
Perunali,
Represented by its Managing Director
A.P. Kalimuthu.

2.A.P.Kalimuthu

.. Petitioners/Appellants/Plaintiffs
Vs.



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1. The Assistant Electrical Engineer (Distribution),
Tamil Nadu Electricity Board,
Perunali.
Ramanathapuram District.
2. The Executive Incharge Distribution,
Tamil Nadu Electricity Board,
Kamuthi.
3. The Assistant Executive Engineer,
(M.R.D.) Tamil Nadu Electricity Board,
Paramakudi.
4. The Superintendent Engineer
(R.E.D.P), Tamil Nadu Electricity Board,
Ramanathapuram.

..Respondents /respondents/defendants

PRAYER: This Civil Miscellaneous Appeal is filed under Section 104 and Order 43 Rule 1(t) of Civil Procedure Code to allow the Civil Miscellaneous Appeal and set aside the Fair and Decretal Order dated 04.04.2012 made in I.A.No.31 of 2012 in A.S.No.54 of 2010 on the file of the Subordinate Court, Paramakudi.



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For Petitioners : Mr.M/s.A.V.Arun

For Respondents : Mr.B. Ramanathan

Additional Government Pleader

COMMON ORDER

The Civil Revision Petition has been filed against the Fair and Decreetal Order dated 04.04.2012 made in I.A.No.30 of 2012 in A.S.No.54 of 2010 on the file of the Subordinate Court, Paramakudi.

The Civil Miscellaneous Appeal Petition has been filed against the Fair and Decreetal Order dated 04.04.2012 made in I.A.No.31 of 2012 in A.S.No.54 of 2010 on the file of the Subordinate Court, Paramakudi.

2. The petition in I.A.No.30 of 2012 was filed with a prayer to condone the delay of 15 days in filing the *ex-parte* order set aside petition. The petition in I.A.No.31 of 2012 was filed with a prayer to set aside the *ex-parte* order dated 17.12.2011 passed in A.S.No.54 of 2010 on the file of the Subordinate Court, Paramakudi.



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3. The reasons stated by the petitioner for filing the petition belatedly in I.A.No.30 of 2012 is that the respondents had filed a petition in I.A.No.48 of 2010 to condone the delay of filing the appeal and the same was allowed subject to condition that he should pay a sum of Rs.2,000/-, against which, the petitioner filed a revision before this Court in C.R.P.Sr.No.1108 of 2011 and the same was returned on 28.09.2011 and he further stated that during the pendency of the above petition, he was indisposed on 29.03.2011 and the name of his advocate was not included in the final cause list, he could not appear before the concerned Court and argue the same. Hence, the order passed against him without hearing him and therefore, the *ex parte* order is liable to be set aside.

4. The petitions were contested by the respondents contending that in spite of several adjournments, the petitioner failed to appear and argue the case. It was further stated that the reason assigned in the petitions were not satisfactorily explained to condone the delay and therefore, prayed to dismiss the petitions.



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5. Upon hearing both sides, the trial Court dismissed both the petitions by holding that the petitioners had not satisfactorily explained the reasons for the delay, aggrieved by which the present Civil Revision Petition and Civil Miscellaneous Appeal have been filed.

6. The learned counsel for the petitioner contended that since a Civil Revision Petition has already been filed against the order passed in I.A.No.48 of 2010 and due to his ill health, he was not able to appear before the appellate Court and argue the matter. He now submits that he is ready to argue the matter if an opportunity is granted.

7. The learned Additional Government Pleader appearing for the respondents contended that the suit itself is not maintainable and the 1st appellate Court after hearing the respondents passed the order on merits. It was further submitted that the petitioner was involved in a case relating to theft of energy amounting to more than one crore rupees, a criminal case has also filed against the petitioner and the petition is deserves to be dismissed as no merits.



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8. Heard the learned counsel on either side and perused the materials available on record.

9. Taking into consideration of the argument advanced by both sides, there is a delay of 15 days in filing the *ex-parte* order set aside petition. The petitioner has already filed C.R.P., against the order passed in I.A.No.48 of 2010 filed by the respondents, further it has been stated that he was unwell on that day. Though the petitioner has not produced any medical report to substantiate his ill-health, in order to provide a fair opportunity, this Court is inclined to allow these petitions subject to the condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Legal Aid Services Authority, attached to this Bench within a period of two weeks from the date of receipt of a copy of this order, failing which the petitions stand dismissed automatically.

10. Further, the petitioner is directed to obtain the copy of the order and appear before the concerned Court to argue the matter as and when the matter is posted for argument. If the petitioner prolongs the



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matter, the concerned Court shall not grant more than one opportunity and shall be at liberty to confirm the order already passed. If the petitioner argues the matter the concerned Court hear the argument afford an opportunity to other side and dispose the same within a period of one month from the date of argument.

11. Hence, this Court is directed the Subordinate Court, Paramakudi to dispose the matter within a period of one month from the date of receipt of a copy of this order.

12. In the result,

(i) With the above observation and direction, the Civil Revision Petition is disposed of. The Order dated 04.04.2012 passed in I.A.Nos.30 and 31 of 2012 in A.S.No.54 of 2010 by the Subordinate Judge, Paramakudi, is hereby set aside. The Subordinate Court, Paramakudi is directed to fix the date for arguing, to hear the argument of the petitioner and dispose the matter within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.



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(ii). Accordingly, the Civil Miscellaneous appeal is disposed
of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

NCC : Yes / No

RM



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To

The Subordinate Court,
Paramakudi.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

Copy to

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Tamil Nadu Electricity Board,
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R. POORNIMA, J.

RM

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