



C.R..P.(PD)(MD).No.462 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.462 of 2022

Venkateswaran Iyer

...Petitioner

Vs.

1.Vikaasa School,
Properitor, Ex-Management,
Madura Coats, Madurai,
Represented by Vikaasa Advisory Board,
Ponnagaram Compound,
Madurai-10.

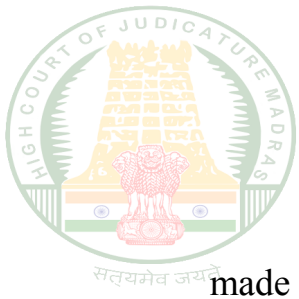
2.Vikaasa Matriculation School,
Represented by its Principal,
Ponnagaram Compound,
Madurai-10.

3.Vikaasa School Administered and
Run by Vikasa Trust,
Through its one of its Secretary,
Biju Sundarsan,
Ponnagaram Compound,
Madurai-10.

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Revision Petition, to set aside the fair and dereetal order dated 08.11.2021

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made in I.A.No.771 of 2020 in unnumbered C.M.A.... of 2020 on the file of the Principal District Court, Madurai.

For Petitioner : Mr.R.Ramadurai
For R3 : Mr.K.Ragatheeshkumar
for M/s.Isaac Chambers

ORDER

This Civil Revision Petition is filed challenging the fair and dereetal order dated 08.11.2021 made in I.A.No.771 of 2020 in unnumbered C.M.A.... of 2020 on the file of the Principal District Court, Madurai.

2.The petitioner is the plaintiff in the suit in O.S.No.595 of 2004 for recovery of arrears of salary. The said suit was dismissed on 30.09.2011. Challenging the same, the petitioner preferred an appeal in A.S.No.49 of 2013 on the file of the Sub Court, Madurai. The appeal was dismissed for default. Thereby, the petitioner filed a restoration petition in I.A.No.383 of 2018 and the same was dismissed on 13.02.2019 as against which, the petitioner preferred an appeal with the delay of 190 days. The said appeal was dismissed without numbering. Challenging the same, this Civil Revision Petition is filed.



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3.The learned counsel for the petitioner submits that in the respondent School, the petitioner was employed as Teacher. Since no salary was paid, the petitioner filed a suit for recovery of the salary from the School. However, the said suit was dismissed. In the appeal, the petitioner was not able to appear before the Lower Appellate Court due to some unavoidable reasons. Thereby, the Lower Appellate Court dismissed the appeal for default and the petition seeking to restore the said appeal was also dismissed without assigning any proper reasons. Challenging the same, the petitioner filed an appeal with the delay of 199 days, out of which, 86 days fall during period of Covid-19. Hence, the delay petition was filed only with the delay of 100 days. Even then, the trial Court has dismissed the petition and the same is not sustainable.

4.Per contra, the learned counsel for the respondent vehemently contended that the restoration petition was dismissed on 13.12.2019. However, Covid lock down started only from March, 2020. Prior to the that totally 190 days were available to the petitioner to challenge the order dismissing the set aside application. However, the petitioner has not taken



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any effective steps to challenge the said order. Hence, the order passed by the trial Court needs no interference.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. The suit is filed for recovery of the salary of the petitioner. The said suit was dismissed. Appeal filed as against the judgment and decree was also dismissed for default. The petitioner has filed a set aside application and the same was also dismissed. Thereafter, the petitioner filed an appeal with the delay of 199 days. However, the trial Court rejected the said petition.

7.Admittedly, the petitioner filed the appeal with the delay of 199 days. The fact remains that mere delay cannot be a ground for refusing the valuable right of appeal to the petitioner. The delay or laches by itself alone was not a good ground to refuse the valuable right of the petitioner.



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8. Accordingly, this Civil Revision Petition is allowed and the dismissal order made in A.S.No.49 of 2013 is set aside and the appeal suit is restored to file. The trial Court is directed to dispose of the appeal suit on merits in accordance with law after providing opportunity to the petitioner as the respondents. No costs.

27.06.2025

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

1. The Principal District Court, Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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