



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 24.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.2079 of 2021

and

C.M.P.(MD)No.11068 of 2021

- 1.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Maharaja Nagar, Tirunelveli-627 001.
- 2.The Assistant Executive Engineer,
Distribution Rural,
Maharaja Nagar, Tirunelveli-627 001.
- 3.The Executive Engineer,
Distribution Rural,
Maharaja Nagar, Tirunelveli-627 001.
- 4.The Assistant Engineer,
Distribution / Rural North,
Tamil Nadu Electricity Board,
Pazhaya Pettai, Tirunelveli-627 008.

...Petitioners

Vs.

Mani

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of CPC, praying to set aside the fair and decreetal order dated 16.03.2021 passed in I.A.No.1 of 2019 in unregistered AS on the file of the learned Principal Sub Judge, Tirunelveli and allow this Civil Revision Petition.



WEB COPY

C.R.P.(PD).(MD)No.2079 of 2



For Petitioners : Mr.B.Ramanathan
Standing Counsel
For Respondent : Mr.H.Arumugam

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 16.03.2021 passed in I.A.No.1 of 2019 in the unregistered Appeal Suit on the file of the learned Principal Sub Judge, Tirunelveli, and to consequently allow the Civil Revision Petition.

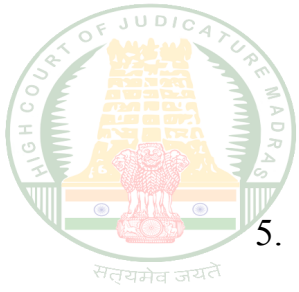
2. The respondent herein filed a suit in O.S.No.571 of 2011 before the Principal District Munsif Court, Tirunelveli, seeking mandatory injunction to remove the electric poles erected in the suit schedule property and also sought costs of the suit. The said suit was decreed on 23.04.2018 in favour of the respondent. Thereafter, the respondent filed an execution petition in E.P.No.85 of 2019 before the trial Court to execute the decree. Subsequently, the petitioners herein filed an unnumbered First Appeal under Order XLI Rule 3-A read with Section 151 of CPC seeking to condone the delay of 443 days in filing the appeal. The same was numbered as I.A.No.1 of 2019 in the unregistered Appeal Suit. However, the learned Principal Sub Judge dismissed the said application on 16.03.2021, on the ground that the delay had not been properly explained.



3. The learned Standing Counsel appearing for the petitioners would submit that the Court below dismissed the condone delay petition solely on the ground that the delay was not properly explained. He further contended that both this Court and the Hon'ble Apex Court have consistently held that delay in filing an appeal should be viewed with leniency, particularly when substantial justice is involved. However, such leniency was not shown in the present case. Accordingly, he prayed for allowing this Civil Revision Petition.

4. Per contra, the learned counsel appearing for the respondent would submit that the petitioners had unlawfully erected electric poles in the respondent's property, thereby preventing the respondent from enjoying the same. Hence, the respondent filed the suit, which was decreed after trial and upon consideration of all materials on record. Despite having sufficient time, the petitioners did not file an appeal in time. Only to delay execution proceedings and harass the respondent, the petitioners filed the appeal with a delay of 443 days. Thus, he prayed for the dismissal of this petition.

4.(i). The learned counsel for the respondent would further submit that the trial Court had already appointed an Advocate Commissioner to measure and survey the property with the assistance of the Town Surveyor. Based on their report, the trial Court passed a reasoned decree directing the removal of the electric poles.



5. At this juncture, the learned Standing counsel appearing for the petitioners would submit that the petitioners are ready to pay costs to the respondent as a condition for condoning the delay.

6. Considering the submissions on both sides and in the interest of justice, this Court is inclined to condone the delay on payment of costs. Accordingly, the fair and decreetal order dated 16.03.2021 passed in I.A.No.1 of 2019 in unregistered AS on the file of the learned Principal Sub Judge, Tirunelveli is set aside and petitioners are directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent within a period of two weeks from the date of receipt of a copy of this order. Upon such payment, the trial Court is directed to number the unregistered Appeal Suit and dispose of the same on merits and in accordance with law, within a period of six months thereafter. On failure of such payment, the order of the trial Court shall stand restored.

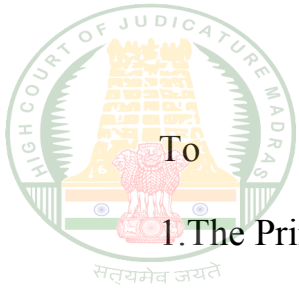
7. In the result, this Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is closed.

24.06.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1.The Principal Sub Judge, Tirunelveli.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY

C.R.P.(PD).(MD)No.2079 of 2



M.DHANDAPANI, J.

TSG

C.R.P.(PD).(MD)No.2079 of 2021

24.06.2025