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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 22.09.2026

Pronounced on: 28.10.2026

CORAM

THE HON'BLE MR JUSTICE P.VADAMALAI

CMP(MD)No. 8177 of 2022

CNR:{HCMD010857732022}

IN

AS(MD)SR No.12078 OF 2022

S.Selvam
S/o.S.Muniappan,
No.20, Sundaram Street,
Manamadurai - 630 606,
Sivagangai District. ...Petitioner/Appellant

Vs

1.Sivakumar
The Sub Inspector of Police,
Taluk Police Station,
Sivagangai.

2.Arul Pitchai @ Kalidoss (Died)

3.The District Collector
Sivagangai District,
Sivagangai.

4.Rani,
W/o.Late Arul Pitchai,
Sengulam, Satharasan Kottai,
Sivagangai. ...Respondents/Defendants

(4th Respondent is brought on record as LRs of the deceased 2nd Respondent vide court order dated 09.02.2026 made in CMP(MD)Nos.16330, 16333 and 16334 of 2025 in AS(MD)SR.No.12078 of 2022 by PVMJ)

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PRAYER: This Civil Miscellaneous Petition is filed to permit the present appeal without payment of Court fee as the petitioner already filed pauper Original Petition and after trial it was allowed in the Sub Court, Sivagangai and this petition may also be allowed in this Court.

For Petitioner : Mr.T.Raghavan
For R1 : Mr.G.Gomathisankar
For R3 : Mr.S.Vasik Ali,
Additional Government Pleader
R2 : Died
For R4 : No Appearance

ORDER

This Civil Miscellaneous Petition is filed under Order 44 Rule 1 of the CPC to permit the petitioner to file this appeal as an indigent person by exempting him from paying the Court fee payable in the appeal.

2. The learned counsel for the petitioner has submitted that the petitioner filed a suit in O.S.No.31 of 2015 before the Sub Court, Sivagangai, against the respondents seeking for compensation, as a false case was registered against the petitioner. The petitioner was incapable of paying the required Court fee and, so, he filed the suit with permission along with the petition in POP.No.1 of 2012 before the trial Court to declare him an indigent person. The said petition was allowed by the trial Court. The suit was proceeded, and after trial, the suit was dismissed by

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way of judgment and decree on 02.11.2021 on merits. Aggrieved by the same, the petitioner has preferred this appeal. The petitioner has no sufficient means to pay the Court fee in preferring the appeal. The petitioner has a good chance of success in the appeal. Hence, the petitioner may be exempted from paying the Court fee by permitting him as an indigent person.

3. The learned counsel for the 1st respondent filed a counter and objected that the petitioner is having house property and immovable property. The petitioner has more than 10 acres as ancestral property. The petitioner has purposely suppressed the source of income. The petitioner has intentionally transferred his property to his wife and children.

4. The learned Government Pleader for the 3rd respondent filed a memo and submitted that the petitioner is having ancestral property in ancestral nature. The petitioner has no self acquired property.

5. I have carefully considered the submissions of both sides and also perused the records. The petitioner has filed a suit for claiming

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compensation from the respondents as he was prosecuted upon a false complaint lodged by the defacto complainant. The trial Court has permitted the petitioner to sue against the respondents as an indigent person as per the order passed in POP.No.1 of 2012 dated 27.02.2015. The order was not challenged by the respondents, though they claim that the petitioner owns ancestral properties and has a source of income. Though the POP was allowed, the suit proceeding initiated by the petitioner was dismissed by the trial Court. Now, the petitioner has preferred the first appeal on the same grounds of pauper by stating that he is unable to pay the required Court fee for preferring the appeal. It is a settled position that the first statutory appeal is a continuation of the suit. The 1st respondent has not filed any document to show that the petitioner has self acquired property in his own name and is receiving income. The 3rd respondent has also conceded that the petitioner has no self acquired property and has a 1/6 share in their ancestral property. There is no records produced by the respondents to show that the ancestral property was divided and the petitioner is receiving income from his shared property or 1/6 share from the ancestral property. The petitioner's side has stated that he has a good chance of succeeding in the appeal, but he has no sufficient means to pay the Court fee. On mere non-payment of the required Court fee, a litigant should not suffer in filing a statutory first

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appeal. Each and every opportunity has to be given to the litigants in preferring an appeal. Therefore, considering the submissions of both sides and also considering the records available in this petition, I am inclined to allow this petition.

6. In the result, this Civil Miscellaneous Petition is allowed. The petitioner is permitted to sue appeal as an indigent person against the judgment and decree, dated 02.11.2021 passed in O.S.No.31 of 2015 on file the Subordinate Court, Sivagangai. The Registry is directed to take on file the appeal if it is otherwise in order.

28.10.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSD

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P.VADAMALAI, J.

VSD

Order made in

CMP(MD)No. 8177 of 2022
IN
AS(MD)SR.No.12078 OF 2022

28.10.2026

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