

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)No.1109 of 2009  
and M.P.Nos.1 of 2009 and 2 of 2011

Deivasigamani

.. Petitioner

Vs.

1.Sellapparayar  
2.Velmurugan

.. Respondents

PRAYER: Civil Revision Petition filed under Section 6-B of the Tamil Nadu Cultivating Tenants Protection Act, against the order passed in Na.ka.A/108/09 dated 01.04.2009 on the file of the Revenue Court, Cuddalore.

For Petitioner : Mr.A.Muthukumar

For Respondents : Mr.S.Prem Anand

**ORDER**

The Civil Revision Petition is filed against the order passed in Na.ka.A/108/09 dated 01.04.2009 on the file of the Revenue Court, Cuddalore.

2. The petitioner, who is the cultivating tenant, is the respondent and respondents, who are owners, are the petitioners in C.T.O.P.No.12 of 2005. The respondents filed the said CTOP for evicting the petitioner on the ground of default in payment of lease amount. The petitioner filed counter opposing the said CTOP and submitted that the petitioner is a cultivating tenant and he has paid the rent without default. The claim of the respondents is barred by limitation and they cannot claim arrears of rent for more than three years.

3. According to the petitioner, he was suffering from jaundice and after recovery from the illness, he found that an exparte order was passed against him on 08.02.2008 in C.T.O.P.No.12 of 2005. He filed an application to set aside the exparte order dated 08.02.2008. The Revenue Court by the proceedings in

Na.Ka.A./108/09 dated 01.04.2009, rejected the application stating that the order dated 08.02.2008 was passed on merits after hearing both the parties.

4. Against the order dated 01.04.2009, the present civil revision petition is filed by the petitioner.

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

6. According to the learned counsel for the petitioner, the order was passed on 08.01.2008 and in the impugned order, it has been wrongly mentioned as 08.02.2008. It is incorrect to state that the said order was passed after hearing the parties. It is only an exparte order. Further, the application to set aside the order dated 08.01.2008 (08.02.2008) was dismissed in a single line order without hearing the petitioner and without giving opportunity to him. He entered appearance through his counsel. No notice was served on the respondents and there is no representation on behalf of them.

7. The contention of the learned counsel for the petitioner is

that order dated 08.01.2008 (08.02.2008) is an ex parte order. On the other hand, the contention of the learned counsel for the respondents is that said order was passed after hearing both the parties. Neither the counsel for petitioner nor counsel for respondents produced the order dated 08.02.2008 before this Court. It is not disputed by the learned counsel for the respondents that application to set aside the order was passed after hearing the petitioner.

8. In view of the above, the impugned order of the Revenue Court dated 01.04.2009 is set aside and the same is restored to file. The authority is directed to serve notice to both the parties, afford an opportunity of personal hearing, pass orders on merits and in accordance with law.

9. In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.07.2017

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To

The Revenue Court, Cuddalore.

V.M.VELUMANI,J.

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