

C.R.P. PD 96 of 2020
and
C.M.P. 596 of 2020

V.BHARATHIDASAN J.

This Court by an order dated 20.01.2020 directed the Trial Court to proceed with the trial and dispose the same within a period of three months. But, due to typographical error, the word 'months' has not been mentioned therein. Hence, the matter is listed today under the caption "for being mentioned".

In the said circumstances, the Registry is directed to modify the order in para 6 as follows :-

Para 6 :-

"6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, considering the fact that, since the suit is pending from the year 1994, and trial has also been commenced, the trial court is directed to proceed with the trial and dispose the same within a period of three months from the date of a receipt of a copy of this order."

The Registry is also directed to issue the fresh copy of the order.

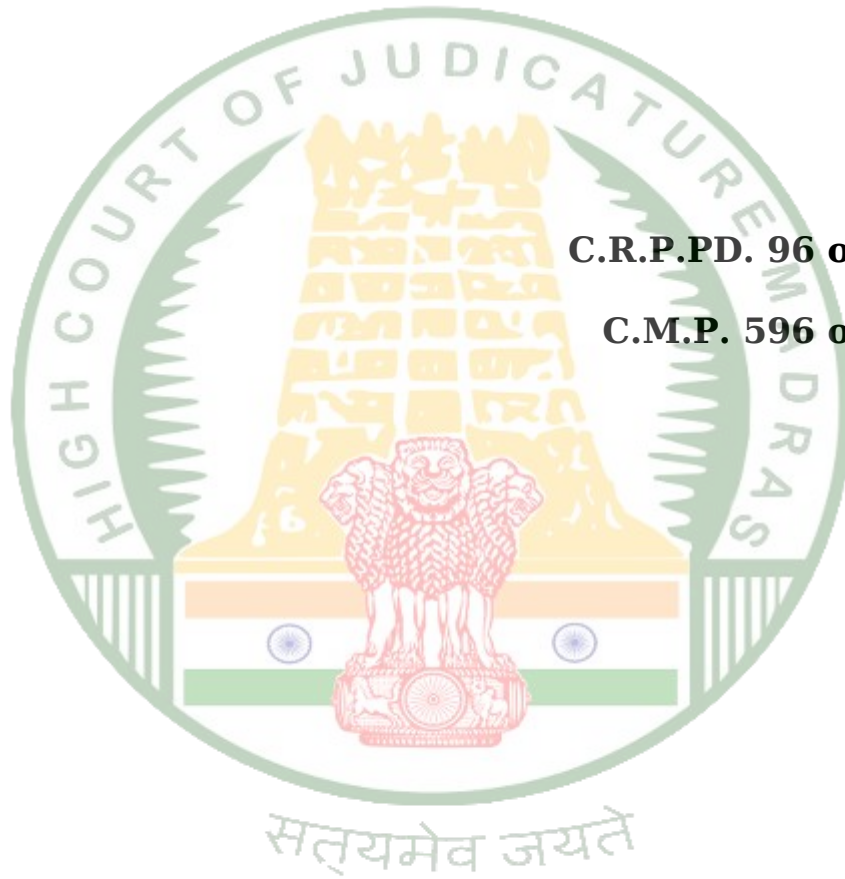
14.02.2020

rpp

Issue the order copy on 17.02.2020

V.BHARATHIDASAN,J.

rpp



**C.R.P.PD. 96 of 2020
and
C.M.P. 596 of 2020**

14.02.2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.R.P(PD).No.96 of 2020
and
C.M.P.No.596 of 2020

Mr. D.V.Gopal ... Petitioner

Vs.

1. Mr. Rangabashiam
2. Mr. Krishnamoorthy
3. Mr. Mohanarangan
4. Mr. Kothandan
5. Mr. D.Srinivasalu Naidu
6. Mr. Govindaraj

Ms.Neelavathy (died)

7. Ms.Dillirani

8. Mr. Anandan

9. Mr. Gunalan

Mr. Sethuraman (died)

10. Mr. Ramesh

11. Mr. Hari
12. Ms. Lalitha
13. Mr. Rajini (died)
14. Mr. Nandan
15. Mr. Panduraman
- Mr. Satheesh (died)
- Ms. Kuttiammal (died)
16. Minor Kannan,
rep. by his father
Panduraman
17. Ms. Manjula
18. Mrs. Saraswathy
19. Minor Vanitha,
rep. by her father
Kothandan
20. Mr. Mohan
21. Mr. Kailash Shankar Sharma ... Respondents

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PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the Sub-Ordinate Judge at Thiruvallur in I.A.No.1 of 2019 in O.S.No.279 of 1994 dated 20.09.2019.

For Petitioner : Mr. A. Ramaswamy

ORDER

This Civil Revision Petition has been filed allowing the application filed by the defendants 18, 20 to 22 to set aside the exparte order.

2. The petitioner is the 17th defendant in the suit. The plaintiff has filed a suit in O.S.No.279 of 1994, on the file of the Sub-Court, Thiruvallur, for partition seeking 1/3 share in the suit schedule property. The respondents 1 to 4 herein, who are defendants 18, 20 to 22 in the suit, were set exparte and an exparte order has been passed against them. Thereafter, they have filed an application to set aside the exparte order in I.A.No.1 of 2019 and the trial Court, by an order dated 20.09.2019, allowed the application on payment of cost of Rs.2,000/- each to the plaintiff and the petitioner/17th defendant. Now, challenging the same, the present revision has been filed.

3. The learned counsel for the petitioner would submit that the application has been filed with a delay of more than 24 years, and the petition itself is not maintainable and barred by limitation under Article 137 of the Limitation Act. That apart, the learned counsel would submit that neither the plaintiff nor the other defendants have no right in the suit property and the Court below without considering all those facts has erroneously allowed the application.

4. I have considered the submission made by the learned counsel for the petitioner and perused the materials available on records carefully.

5. First of all, the petitioner is one of the defendants in the suit, and the application to set-aside the exparte order has been allowed on payment of cost to the plaintiff and the petitioner. However, the plaintiff did not come forward to challenge the said order. It is settled law that there is no limitation for filing application to set-aside the exparte order

under Order 9 Rule 7 CPC, however, sufficient reason has to be given by the defendant for setting aside the exparte order. Now, the trial Court, after accepting the reason given by the respondents 1 to 4 herein, allowed the application on payment of cost of Rs.2000/-. Further it is stated that now only the trial has commenced, and an opportunity should also be necessarily given to the other defendants to contest the suit. In the above circumstances, I find no illegality or irregularity in the order passed by the trial Court and I find no merit in the revision petition.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, considering the fact that since the suit is pending from the year 1994 and trial has also been commenced, the trial Court is directed to proceed with the trial and dispose the same within a period of three (3) months from the date of receipt of a copy of this order.

20.01.2020

Index:Yes/No
Internet:Yes
Speaking/Non-speaking order
mrp

Note : Issue order copy on 22.01.2020
To

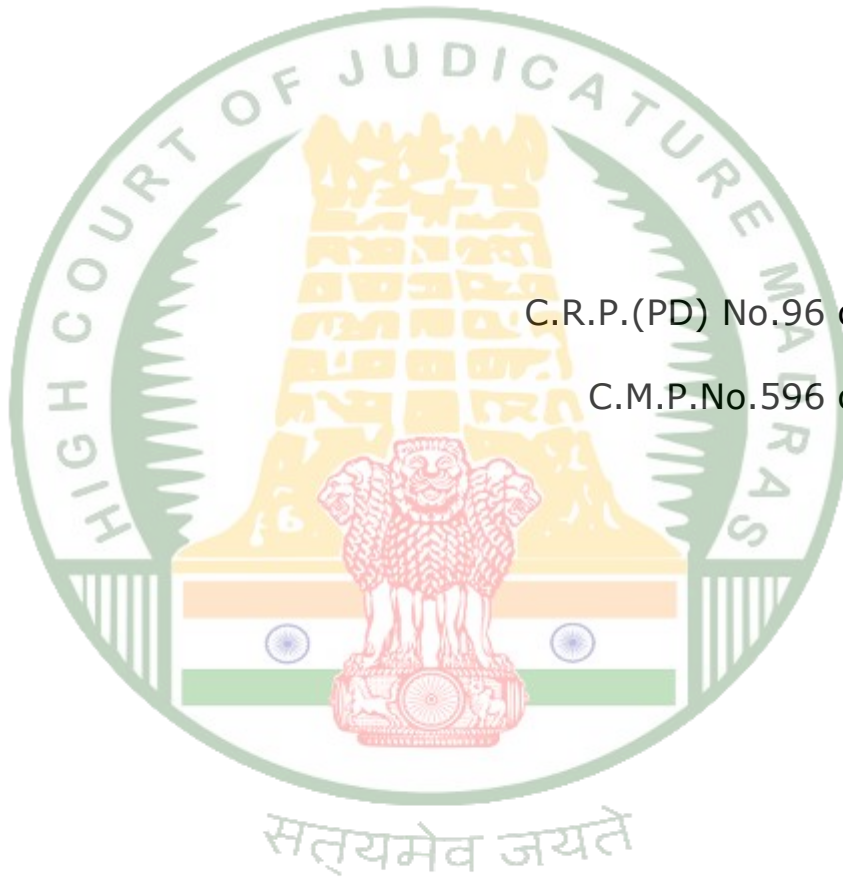
The Sub-Ordinate Court, Thiruvallur



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V.BHARATHIDASAN, J

mrp



C.R.P.(PD) No.96 of 2020
and
C.M.P.No.596 of 2020

20.01.2020
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