

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.12.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**C.R.P.(P.D) No.3409 of 2020**  
**and C.M.P.No.22397 of 2019**

Shanmugam

...Petitioner

Vs

1.M.Ramasamy

2.Usha

...Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the order dated 17.07.2019 in I.A.No.266 of 2018 in O.S.No.126 of 2013 on the file of the Additional District Munsif court Tiruchengode

For Petitioner  
For R1  
For R2

: Mr.K.Aswin  
: Mr.S.R.Marudhachalamurthy  
: No Appearance

**ORDER**

The Civil Revision Petition has been filed against the order dated 17.07.2019 passed in I.A.No.266 of 2018 in O.S.No.126 of 2013 on the file of the Additional District Munsif court Tiruchengode.

2.The Revision Petitioner is the 1<sup>st</sup> defendant in the suit O.S.No.126 of 2013. One Usha/plaintiff filed the suit for the relief of permanent injunction against the revision petitioner/Shanmugam and one Ramasamy. The 2<sup>nd</sup> defendant/Ramasamy in the suit was set ex-parte on 26.08.2013 for not filing the written statement. So, that he filed a petition to set aside the ex-parte order against him. That petition was considered and allowed by the trial Court with cost of Rs.1500/-. Aggrieved by this order, the 1<sup>st</sup> defendant/Shanmugam in the suit O.S.No.126 of 2013 filed this Revision Petition.

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3.The learned counsel for the Revision Petitioner submitted that the trial Court order's is unjust. Further he submitted that the petitioner filed the suit for specific performance in O.S.No.322 of 2004 which was decreed with costs on 18.06.2004. Through EP proceedings, a sale deed was executed in his favour and registered. For delivery of possession, REA.211of 2008 was filed. The 1<sup>st</sup> defendant/Ramasamy set up his son Gowthaman and he filed REA.No.4 of 2010 under Order 21 Rule 97 and Section 47 CPC and resisted the EP which was dismissed on 14.06.2010. Thereafter to prevent the delivery of possession, he set up Usha/plaintiff and she filed a suit in O.S.No.126 of 2013. In that suit, the 2<sup>nd</sup> second respondent/Ramasamy contended that he leased out the property to the plaintiff under an unregistered agreement. He wantonly remained ex-parte. Thereafter, he filed a petition to set aside ex-parte order which was allowed by the trial Court. It is unsustainable and reiterated other grounds raised in the Revision Petition and he pleaded to set aside the order of the trial Court and allow the Revision Petition.

4.Learned counsel for the respondents supported the order of the trial Court and pleaded to dismiss the Revision Petition.

5.Heard the learned counsel for both parties and perused the materials available on record.

6.The Revision Petitioner is the 2<sup>nd</sup> Defendant in the suit in O.S.No.126 of 2013 filed by Usha/Plaintiff, another defendant is Ramasamy. He filed the petition in I.A.No.266 of 2018 to set aside ex-parte against him passed on 26.08.2013 since the 1<sup>st</sup> respondent/Ramasamy assigned sufficient reasons for his non-appearance. The trial Court accepted and satisfied with the reasons, allowed the petition with cost and set aside the ex-parte order. I find that the trial Court has rightly allowed the petition to give an opportunity to the defendant to contest the case and to avoid multiplicity of proceedings. I find no valid reason to interfere with the order of the trial Court.

7. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

**07.12.2020**

Index: Yes/No

Speaking Order: Yes/No

vsn

To

The Additional District Munsif court Tiruchengode



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**V.SIVAGNANAM.J,**

vsn



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