

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HON'BLE Mr. JUSTICE P.D. AUDIKESAVALU

**C.R.P. (NPD) No. 2263 of 2017
and
C.M.P. No. 10666 of 2017**

1. Deepa

2. Kavitha @ Pachaiaimmal ... Petitioners

-VS-

1. Ramaiah

2. Varatharajan

3. Jayaprakash Narayanan

4. Lohia

5. Kuppusamy ... Respondents

Prayer:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, 1908, praying to set aside the Fair and Decretal Order of the District Munsif Court at Sankari dated 11.07.2016 in I.A. No. 1487 of 2010 in I.A. No. 405 of 2009 in O.S. No. 146 of 2009.

For Petitioners : Mr. P.Valliappan

For Respondents : Mr. N.Manokaran

ORDER
(through video conference)

Heard Mr. P.Valliappan, Learned Counsel for the Petitioners and Mr. N.Manokaran, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Learned Counsel for the Petitioner has filed a memo dated 26.03.2021 in which it has been stated as follows:-

"2. It is respectfully submitted that while the application filed by the petitioners under Order 9 Rule 7 of the Code of Civil Procedure was pending, the suit itself was decreed exparte on 21.08.2009. To set aside the same, the petitioners filed the application in I.A. No. 1486 of 2010 under Order 9 Rule 13 of the Code of Civil Procedure, 1908 on 31.08.2009.

3. It is respectfully submitted that the application in I.A. No. 1486 of 2010 filed under Order 9 Rule 13 was dismissed on 27.06.2016. As against the same, the petitioners preferred the Civil Miscellaneous Appeal in C.M.A. No. 6 of 2018 before the Subordinate Judge's Court at Sankari. The said Civil Miscellaneous Appeal is pending.

4. *Therefore, the petitioners may be permitted to withdraw the above Civil Revision Petition with liberty to agitate the interlocutory application in I.A. No. 405 of 2009 as and when the exparte decree dated 21.08.2009 is set aside."*

3. In view of the same, the Civil Revision Petition is dismissed as withdrawn with a clarification that in the event that the exparte decree dated 21.08.2009 in O.S. No. 146 of 2009 passed by the District Munsif Court, Sankari is set aside and the suit is restored to file, the Petitioners would not be precluded from working their remedies to vacate the order dated 08.06.2009 in I.A. No. 405 of 2009 in O.S. No. 146 of 2009 in the manner recognized by law. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.03.2021

vjt

Index: Yes/No

Note: Issue order copy by 08.04.2021.

To

The District Munsif Court,
Sankari.

C.R.P. (NPD) No. 2263 of 2017

P.D. AUDIKESAVALU, J.

vjt



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