



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD)Nos.891 and 892 of 2020

and

CMP (MD) .No.5862 of 2020

V.Subba Rao (Died)
S.Kuppulakshmi (Died)

1. S.Seenivasan
2. S.Venkateswaran
3. S.Ravichandran
4. S.Krishnan

... Petitioners/Respondents 3 to 6
/Plaintiffs 3 to 6
(in both C.R.Ps.)

Vs.

1. K.Selvam

... 1stRespondent/Petitioner
/ 2nd Defendant

2. S.Pandian

... 2ndRespondent/7th Petitioner
/ 1st Defendant

- 3.The District Collector,
Theni District,
Madurai Road, Theni.

4. The Assistant,
Land Survey & Records Room,
Theni, Theni District.

5. The Tahsildar,
Taluk Office,
Theni, Theni District.

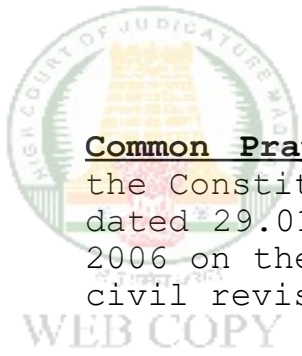
6. The Assistant Director,
Survey and Land Records,
District Survey Unit,
Madurai.

7. Palaniammal

8. Mohanraj

... Respondents 3 to 8/
Respondents 8 to 13,/
Defendants 3 to 8

(Respondents 2 to 8 are given up, as they are not necessary to the
present proceedings) (in both C.R.Ps.)



Common Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal order dated 29.01.2020 passed in I.A.Nos.3 and 4 of 2019 in O.S.No.263 of 2006 on the file of the District Munsif Court, Theni and allow these civil revision petitions.

For Petitioners	: Mr.R.Subramanian
(in both C.R.Ps.)	
For Respondents	: Mr.P.Athimoolapandian for R1
(in both C.R.Ps.)	Mr.Srinivasa Raghavan
	for R2

COMMON ORDER

These civil revision petitions had been filed to set aside the order dated 29.01.2020 made in I.A.Nos.3 and 4 of 2020 in O.S.No.263 of 2006, on the file of the District Munsif Court, Theni.

2. Learned counsel appearing for the petitioners would submit that the father of the revision petitioners late Mr.Subbarao filed O.S.No.263 of 2006 against the respondents 1 to 6 herein for declaration and permanent injunction in respect of the suit property measuring 1235 sq.ft. in S.No.546, Allinagaram village, Theni Taluk and District. When the revision petitioners' father Subbarao died, the revision petitioners were impleaded as plaintiffs. It is also stated that the respondents 1 and 2 herein remained ex-parte in the suit in O.S.No.263 of 2006 and an ex-parte decree was passed on 23.12.2010. Thereafter, the 1st respondent filed I.A.Nos.3 and 4 of 2019 in O.S.No.263 of 2006 on the file of the District Munsif Court, Theni, for re-opening and re-calling the witnesses of plaintiffs' side for cross examination.

3. Learned counsel for the revision petitioners would further submit that though the revision petitioners raised their objections stating that the 1st respondent has not taken any steps to set aside the ex-parte order and that he has no *locus standi* to file the said applications, however, the trial Court without taking into consideration the objections raised by the petitioners, allowed the applications. Aggrieved over the same, these civil miscellaneous petitions have been filed by the revision petitioners.

4. Heard the learned counsel for the parties and perused the materials placed before this Court.

5. Admittedly, the petitioner in I.A.Nos.3 and 4 of 2019 remained ex-parte and without setting aside the ex-parte order dated 23.12.2010, he has filed the above applications for re-opening and re-calling the plaintiffs' side witnesses for cross examination, which has been allowed by the trial Court and therefore, considering

<https://hccr.judges.org.in/epw/index.php>



petition, I am inclined to set aside the orders passed in I.A.Nos.3 and 4 of 2019 in O.S.No.263 of 2006 and these Civil Revision Petitions are allowed.

6. However, the respondents 1 and 2 are at liberty to file a petition to set aside the ex-parte order forthwith with the condone delay application and if any application is filed, the learned Judge shall give an opportunity to the petitioners herein to file their counter affidavit and after hearing them, pass order on its own merits and such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Munsif Court,
Theni.

2.The Record Keeper, (2C)
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-9844[F] dated 10/03/2021)

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SSS (CO)
KB(29.03.2021) 3P 5C