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C.R.P.Nos.726 and 728 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

C O R A M:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**C.R.P.Nos.726and 728 of 2019**

**and**

**C.M.P.No. 4710 of 2019**

Ramasamy Sathees

... Petitioner in both C.R.Ps

Vs.

1. The State of Tamil Nadu,  
Rep. by the Collector,  
Collectorate, Salem.
2. The Revenue Divisional Officer,  
Attur, Salem District.
3. Athiappan,  
The Village Administrative Officer,  
In charge of Kothambadi Village,  
Attur Taluk.
4. Rani Desing,  
President, Kothambadi,
5. Thangaraj,  
Tahsildar, Attur.



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6. Kumar,  
Deputy Tahsildar, Attur.

7. Murugaian,  
Deputy Tahsildar, Attur.

... Respondents in both  
C.R.Ps

**PRAYER in CRP.726 of 2019** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 31.07.2018 dismissing the suit O.S.No.162 of 2013 on the file of the Principal District Judge, Salem.

**PRAYER in CRP.726 of 2019** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 31.07.2018 dismissing the application in I.A.No.83 of 2018 in O.S.No.162 of 2013 on the file of the Principal District Judge, Salem.

|                 |   |                               |
|-----------------|---|-------------------------------|
| For Petitioner  | : | Mr.P.Jagadeesan               |
| (both C.R.Ps)   |   |                               |
| For Respondents | : | Dr.S.Suriya                   |
| (both C.R.Ps)   |   | Additional Government Pleader |
|                 |   | for R1 and R2                 |
|                 | : | No appearance                 |
|                 |   | for R3 to R7                  |



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### **COMMON ORDER**

The revision petitioner/plaintiff filed O.S.No.162 of 2013 for damages and to direct the defendants/State to pay the suit amount by way of compensation.

2. The trial court, by Judgment dated 31.07.2018 dismissed the suit in O.S.No.162 of 2013 as dismissed as withdrawn. The learned Judge however, rejected to entertain the petitioner's application in I.A.No.83 of 2018 in O.S.No.162 of 2013.

4. Earlier, this court by order dated 03.02.2022, ordered as under:-

“ 3. Since the position is now made clear and the learned counsel appearing for the petitioner understand the real issue, the learned counsel for the petitioner has undertaken to advise his client to withdraw the application filed by the revision petitioner under Order 23 Rule 1 C.P.C., before the lower court to withdraw the suit. If a memo is



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filed before this Court to that effect, this court may dismiss the application filed by the revision petitioner before the lower court under Order 23 Rule 1 C.P.C., so that the revision petitioner may prosecute the suit to its logical end.

4. The submission of the learned counsel for the respondent that this order will not preclude the respondent prosecuting their application under Order 7 Rule 11, is noted. Uninfluenced by any of the observation made by this court in this order, it is open to the respondent to prosecute their application filed under Order 7 Rule 11 C.P.C.”

3. In compliance to the directions passed by this court by order dated 03.02.2022, the revision petitioner filed a memo dated 09.02.2022 stating as under:-

“ It is respectfully submitted that as per the order of this Hon'ble Court dated 03.02.2022 passed in the above Civil Revision Petition, the petitioner prays that he may be permitted to withdraw I.A.No.83 of 2018 in O.S.No.162 of 2013 before the Hon'ble Principal District Judge, Salem, filed under Order 23 Rule 1 of C.P.C. The petitioner further prays that he may be



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permitted to prosecute the suit in O.S.No.162 of 2013 on the file of the Hon'ble Principal District Judge, Salem.

Therefore, it is prayed that this Hon'ble Court may be pleased to record this Memo and pass appropriate orders and thus render justice.”

4. In view of the memo filed by the petitioner dated 09.02.2022, the revision petitioner is at liberty to withdraw I.A.No.83 of 2018 in O.S.No.162 of 2013 and accordingly, the petition filed under Order 23 Rule 1 C.P.C., is dismissed as withdrawn. The suit in O.S.No.162 of 2013 is restored on the file of Principal District Court, Salem. The petition filed by the respondent-Department under Order 7 Rule 11 CPC can be prosecuted uninfluenced by the observations made in this order. The above Revision petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

**14.06.2022**



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**J.NISHA BANU, J.**

nvsri

To

1. The Principal District Judge, Salem.
2. The Section Officer, V.R.Section, High Court, Madras.

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**14.06.2022**

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