



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (MD) Nos.709 and 710 of 2020

and

C.M.P (MD) Nos.4716 and 4720 of 2020

C.R.P (MD) No.709 of 2020

1.T.Kalaiyarasi
2.Rathinamala
3.Ayyappan
4.Manoharan
5.Mohankumar

... Petitioners

Vs.

1.M.Subba Naidu
2.M.Rengasamy
R.Kamatchiyammal (died)
3.R.Dhandapani
4.G.Mallika
5.K.Sulokshana
6.P.Santha
7.M.Kalaiselvi
8.Pitchaiyammal
9.Jeganathan
10.Kesavan
11.Dhinakaran
12.Sathiyabama
13.Maya Thevar
14.Ayyapparaj
15.Ramdoss Naidu
16.Ramanujam
17.Govindarajan
18.B.Thangamani
19.M.Boss
20.M.Kubendran
21.Mahalakshmi
22.Ramesh
23.Banumathi
24.Radha
25.Anantharamakrishnan
26.Muthulakshmi
27.Ramalakshmi



28.The Sub Registrar
Sub Registrar Office,
NRT Nagar,
Theni Allinagaram Municipality,
Theni Taluk,
Theni District.

29.The District Collector,
Madurai Road,
Theni Taluk,
Theni District.

... Respondents

PRAYER:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to pass an order setting aside the fair and executable order dated 18/12/2019 passed in the application in I.A.No.3 of 2019 in O.S.No.54 of 2011 on the file of the District Munsif Court, Theni and dismiss the same.

For Petitioner : Mr.J.Barthan
For Respondents : No appearance

C.R.P(MD)No.710 of 2020

1.B.Thangamani
2.M.Boss
3.M.Kubendran

... Petitioners

Vs.

1.M.Subba Naidu
2.M.Rengasamy
R.Kamatchiyammal (died)
3.R.Dhandapani
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18.Mahalakshmi
19.Ramesh
20.Banumathi
21.T.Kalaiyarasi
22.Radha
23.Rathinamala



24.Ayyappan
25.Manoharan
26.Mohankumar
27.Anantharamakrishnan
28.Muthulakshmi
29.Ramalakshmi
30.The Sub Registrar
Sub Registrar Office,
NRT Nagar,
Theni Allinagaram Municipality,
Theni Taluk.
Theni District.

31.The District Collector,
Madurai Road,
Theni Taluk,
Theni District.

... Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to pass an order setting aside the fair and executable order dated 18/12/2019 passed in the application in I.A.No.4 of 2019 in O.S.No.54 of 2011 on the file of the District Munsif Court, Theni and dismiss the same.

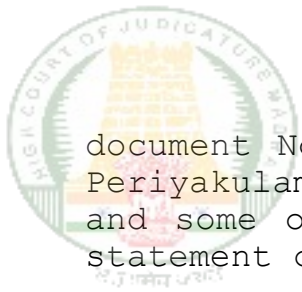
For Petitioner : Mr.J.Barthan

COMMON ORDER

Some of the defendants in the suit in OS No.54 of 2011 have filed these civil revision petitions. CRP(MD)No.709 of 2020 is filed by the defendants 17, 19 to 22 and CRP(MD)No.710 of 2020 is filed by the defendants 11 to 13. These revision petitions are filed challenging the dismissal of IA No.3 of 2019 and IA No.4 of 2019 filed by the respective revision petitioners seeking to set aside the ex parte order against them. The revision petitioners in CRP (MD) No.709 of 2020 seeks to set aside the ex parte order dated 25.04.2011 and the revision petitioners in CRP(MD) No.710 of 2020 seeks to set aside the ex parte order dated 09.08.2017.

2.The brief facts are as follows:-

(i) The respondents 1 to 7 herein had filed the suit in O.S.No.54 of 2011 on the file of the learned District Munsif, Theni, for setting aside the sale deeds starting from the year 1942 to the year 2010, as null and void and not binding on the plaintiffs and consequently, declaring the title of the plaintiffs to the suit property and also for a consequential permanent injunction. The first of the relief is to set aside the sale deed registered as



document No.2489/1942 on the file of the Joint Sub Registrar No.2, Periyakulam. The revision petitioners herein had entered appearance and some of them had filed their written statements. The written statement of the revision petitioners had been filed on 18.09.2012.

WEB COPY (ii) The revision petitioners in CRP(MD) No.709 of 2020 would submit that on 30.08.2019 when the fifth petitioner/22nd defendant was in the suit property, the plaintiffs had attempted to disturb his possession. Thereafter, when the fourth petitioner/21st defendant had come to know about the same, he had immediately called upon his counsel, who informed him that the suit had been set ex parte against the defendants 17, 19 to 21 on 25.04.2011 and 22nd defendant on 26.06.2012. The petitioners would submit that the fourth petitioner was handling the suit and he had to leave out of station for his work purpose and this has resulted in not approaching his advocate and giving instructions and consequently, they had been set ex parte.

(iii) Likewise, the revision petitioners in CRP(MD) No.710 of 2020 would submit that it was the 6th defendant, who had been engaging the counsel, and he had passed away on 20.07.2019. They had been informed by the 22nd defendant that the plaintiffs were attempting to interfere with the possession and when they had conducted their counsel they came to learn that they had been set ex parte on 09.08.2017 and the reason for non appearance was only on account of the fact that the 6th defendant was handling the proceedings on their behalf.

(iv) The petitioners had thereafter filed the respective interlocutory applications for setting aside the ex parte decree. The learned District Munsif, Theni, dismissed the said application on the ground that adequate reasons had not been given. Challenging the same, the revision petitioners are before this Court.

3.The learned counsel for the petitioners would submit that the suit is still pending and posted for evidence. Therefore, no prejudice would be caused to the plaintiffs, if the applications are ordered. That apart, the petitioners have also filed their respective written statements.

4.The respondents, though served, had not entered appearance either in person or through counsel.

5.Considering the fact that the suit is still pending and the matter is posted for evidence, the ex parte order against the revision petitioners deserve to be set aside, particularly, taking into account the relief claimed in the plaint. Further, the petitioners have filed their written statements. Therefore, these Civil Revision Petitions are allowed and the orders dated 18.12.2019 passed in IA Nos.3 and 4 of 2019 are set aside and the written



statements filed by the respective petitioners shall be taken on file. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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:

The District Munsif,
Theni.

+2 CC to M/s.T.R.JEYAPALAM, Advocate (SR-3566[F] & SR-3567[F]dated 02/02/2022)

C.R.P(MD)Nos.709 and 710 of 2020

and

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MGJ(22.02.2022) 5P 4C