



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P(PD) (MD) .No. 1772 of 2021
and CMP(MD)No.9447 of 2021

K.Selvam

... Petitioner/Petitioner/
Defendant

Vs

V.Subbarao (Died)

S.Kuppulakshmi (Died)

1.S.Seenivasan

2.S.Venkateswaran

3.S.Ravichandran

4.S.Krishnan

5.S.Pandian

6.The State of Tamil Nadu
Through its District Collector
Theni District.

7.The Assistant Director of Survey and Land Records Department,
Theni District.

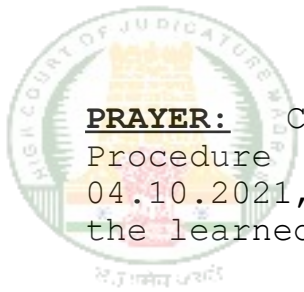
8.The Thasildhar,
Theni Taluk,
Theni District.

9.The Assistant Director of Survey,
District Land Survey Record Unit,
Madurai.

10.Palaniammal

11.Mohanraj

... Respondents



PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and executable order dated 04.10.2021, in I.A.No.06 of 2021 in O.S.No.263 of 2006, passed by the learned District Munsif, Theni.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.M.Saravanan for (R1 to R4)

Mr.A.Kannan

Additional Government Pleader

(R6 to R9)

No Appearance (R5,R7,R8, R10,R11)

ORDER

This Civil Revision Petition has been filed by the revision petitioner to set aside the fair and executable order dated 04.10.2021 in I.A.No.06 of 2021 in O.S.No.263 of 2006, passed by the learned District Munsif, Theni.

2.I.A.No.6 of 2021 was filed by the revision petitioner to set aside the *exparte* order, dated 08.12.2010. The suit in O.S.No.263 of 2006 was dismissed by the trial Court on 23.12.2010 against which, the respondent/plaintiff filed A.S.No.28 of 2013. On 23.05.2017, in A.S.No.28 of 2013, the matter was remitted back to the trial Court for issuing notice to the proposed parties and both the parties are permitted to let in evidence and decide the matter. The revision petitioner/D2 has filed written statement on 04.03.2006. Afterwards, he failed to appear before the trial Court and he was set *exparte*. Again the suit was dismissed on merits. He filed an appeal and in that also, the revision petitioner was set *exparte*. Again the matter was remitted back to the trial Court. In the impleading petition also, notice was served to the present revision petitioner. At that time, he did not appear before the trial Court. Now already evidence closed and the matter was posted for arguments. This revision petitioner wantonly drag on the proceedings, after filing his written statement in the year 2006.

3.From the above, the trial Court has rightly dismissed the petition, but the reason stated by the trial Court is not at all valid, since the suit is remitted back and pending. Hence, petition under Section 5 of Limitation Act is necessary.

4.Accordingly, this Civil Revision Petition stands dismissed, by confirming the impugned fair and executable order dated 04.10.2021 in I.A.No.06 of 2021 in O.S.No.263 of 2006, passed by the learned District Munsif, Theni. However, the revision petitioner is at liberty to participate in the case proceedings at the stage of



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arguments. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

To

1.The District Munsif, Theni.

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

+1 CC to M/s.M. SARAIVANAN, Advocate (SR-18897[F] dated 18/04/2022)

+1 CC to M/s.SPL.GP. (SR-18976[F] dated 18/04/2022)

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