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C.M.P. Nos.7574 & 7577 of 2023
in S.A.No. 662 of 2010

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T.V. THAMILSELVI, J.

These petitions have been filed by respondents 3 and 4 respectively seeking to set aside the exparte order passed by this court dated 20.03.2017.

2. Mr.K.Venkateswaran, learned counsel for respondents 3 and 4 submitted that originally the 1st respondent/appellant filed a suit in O.S.No.563 of 2004 on the file of District Munsif cum Judicial Magistrate, Arani for the relief of declaration and permanent injunction, in which, the petitioners, who are purchasers of suit property, are arrayed as 3rd and 4th defendants respectively. After hearing both sides, the learned trial judge decreed the suit in favour of plaintiff and aggrieved over that, the petitioners have preferred an appeal in A.S.No.44 of 2007. The first appellate court reversed the judgment of trial court stating that the plaintiff failed to establish his title over the property. Challenging the said findings, the plaintiff preferred the present Second Appeal. He would submit that the 1st respondent herein does not have any right or semblance in respect of suit property and only in order to drag the petitioners herein, he came forward



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with the aforesaid appeal. However, the notice in respect of second appeal was not served upon them and they came to know about the pendency of the above appeal recently. He would submit that now he was informed about the execution of Will in favour of 2nd respondent herein and in order to assert the same, the exparte order was passed against them. They are having valid defence to prove their case and unless the exparte order of this court dated 20.03.2017 is set aside, they will be put into much hardship. Therefore, they have filed these petitions to set aside the exparte order passed by this court.

3. Mrs.V.Srimathi, learned counsel for respondent appeared and raised formal objections in allowing the above petition.

4. Heard both sides.

5. Considering the facts and circumstances, and the reasons stated by the petitioner seems to be justifiable one, this court is inclined to allow these petitions.

6. Post the matter on 08.08.2023.

24.07.2023

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