



WEB COPY



CRP No.4338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4338 of 2023
and
C.M.P. No.26365 of 2023

Gunasekaran

... Petitioner

Versus

Murugesan (Died)

1.Padmavathy
2.Jesna Loganathan
3.Amutha
4.Jagannathan
5.Jagadeesan

...Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the Fair and Decretal order dated 23.09.2023 made in I.A.No.7 of 2023 in R.C.O.P.No.9 of 2013 on the file of District Munsif Court, Mettupalayam.

For Petitioner : Mr.C.Prabakaran

ORDER

The petitioner has filed this revision petition to set aside the Fair and Decretal order dated 23.09.2023 made in I.A.No.7 of 2023 in R.C.O.P.No.9 of 2013 on the file of District Munsif Court, Mettupalayam.



CRP No.4338 of 2023

2. Before the trial Court the petitioner has filed an I.A.No.7 of 2023 to issue Subpoena for the examination of Divisional Manager Railway, since the property belongs to the railway and to prove his defence, he approached the Court, but the learned trial Judge erroneously dismissed the application stating that, the ownership of the respondent was already admitted and burden lies on the landlord to prove the same.

3. The learned counsel for the revision petitioner submitted that now the case is posted for evidence on their side. While cross-examining of P.W.2, who is sister of PW1, admits that the property is a Railway poromboke. In order to prove that the property belongs to the railway they wants to examine the Railway Divisional Manager, but the evidence of Railway Divisional Officer is not to be appreciated. If such opportunity is not given to the revision petitioner, his valuable right to defend his case will be defeated.

4. Therefore, this Court is inclined to set aside the findings rendered by the learned trial Judge in I.A.No.7 of 2023 in R.C.O.P.No.9 of 2013. I.A. is allowed. The learned trial Judge is directed to issue Subpoena to the Railway authority, within a period of two weeks from the date of receipt of a copy of this order in the manner known to law.



CRP No.4338 of 2023

WEB COPY

5. Accordingly, this Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

23.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
rri

To

1. The District Munsif Court, Mettupalayam.
2. The Section Officer,
VR-Section, High Court of Madras.



WEB COPY



CRP No.4338 of 2023

rii

Civil Revision Petition No.4338 of 2023
and
C.M.P. No.26365 of 2023

22.11.2023