



C.R.P(MD)No.862 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.862 of 2020

1.Thiresammal

2.Nirmaladevi

... Petitioners / Plaintiffs

Vs

1.P.J.H.Aprajithan

2.P.Michil Jeevasan

3.State Bank of India,

represented by its Manager,

Amman Sannathi, Tenkasi Kasba,

Tenkasi Taluk.

4.Rajendran

... Respondents / Defendants

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decretal order dated 25.02.2020 passed in I.A.No.249 of 2018 in O.S.No.173 of 2010 on the file of the Principal Sub Court, Tenkasi and to allow the present Civil Revision Petition.



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For Petitioner : Mr.S.P.Maharajan

For R1 : Mr.B.Anandan

For R3 : Mr.M.Kannan

For R2 and R4 : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 25.02.2020 passed in I.A.No.249 of 2018 in O.S.No.173 of 2010 on the file of the Principal Sub Court, Tenkasi and to allow the present Civil Revision Petition.

2. The suit in O.S.No.173/2020 was filed by this revision petitioners seeking the relief of partition and separate possession of the 5/9 share. The defendant appeared and filed their statement. Later, they remained ex parte. The case was posted for plaintiff's side evidence. At that time, the plaintiffs did not appear. To set aside the dismissal order, he filed the present I.A.No.249/2018 stating that on the date of hearing, he was affected by back pain, so could not appear before the Court. Apart from that it is also stated that the second petitioner was looking after the case. She did not inform about the Court proceedings. But dismissal



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order came to his notice only after December-15. That was not resisted by the respondent but however the trial Court found that no proper reason is assigned and even the reason assigned is not supported by any evidence. Against which this Civil Revision Petition is preferred.

3. As mentioned above, the respondent having remained ex parte before the trial Court, but however, they appear before this Court. Since the suit is one for partition and separate possession of 5/9 share, there is no need for the revision petitioners to drag on the proceedings.

4. Therefore, I am of the considered view that one more opportunity may be given to the petitioners to argue the matter. For the inconvenience caused to the respondents, the petitioners were directed to pay a sum of Rs.2,000/- (Rupees Two Thousand only), on or before 09.12.2024. Since the order of this Court was complied by the petitioner, this Court is inclined to allow these Civil Revision Petition.

5. Accordingly, this Civil Revision Petition is allowed and the fair and decreetal order dated 25.02.2020 passed in I.A.No.249 of 2018 in



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O.S.No.173 of 2010 on the file of the Principal Sub Court, Tenkasi, is set aside. No costs.

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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09.12.2024

To

- 1.The Principal Sub Court, Tenkasi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

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ORDER
IN

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