



Review Application No.119 of 2007 &
CRP.No.1151 of 2005 &

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THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 03.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Review Application No.119 of 2007 &

CRP.No.1151 of 2005 &

CMP.Nos.8089 & 16662 of 2005

1. Mahaboob Bi
2. Shahida Bi
3. Nazir Ahmad

. . . Applicants in Rev.Appl.& respondents in CRP

Versus

1. Ameerjan
2. Riyaz
3. Afzal
4. Ayaz

. . . Respondents in Rev.Appl. & petitioners in CRP

PRAYER in Rev. Appl. : Petition filed under Order XLVIII Rule 1 of Code of Civil Procedure to review the Order passed in CRP. [NPD] No.1151 of 2005 and CMP.No.8089 of 2005 dated 13.02.2006.

PRAYER IN CRP : Petition filed under Section 115 of Code of Civil



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Procedure against the Order and Decreetal Order in REP.No.25 of 2003 in O.S.No.279 of 1982 on the file of the District Munsif Court, Hosur dated 25.01.2005.

For petitioner : Mr.T.Narayanan in Rev.Appln &
respondents in CRP

For respondents : Mr.J.Franklin in CRP &
petitioners in Rev.Appln.

COMMON ORDER

The Review Application has been filed to review the Order passed in CRP. [NPD] No.1151 of 2005 and CMP.No.8089 of 2005 dated 13.02.2006.

The Civil Revision Petition has been filed against the Order and Decreetal Order in REP.No.25 of 2003 in O.S.No.279 of 1982 on the file of the District Munsif Court, Hosur dated 25.01.2005.

2. The revision application has been originally filed by the defendants



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10,11, 12, in the suit on the ground that as an exparte final decree has been passed, there cannot be an order of delivery in the Execution Petition.

3. The review applicants are the plaintiffs in the suit. It is their contention that the Order passed in the revision petition has to be reviewed for the reasons that it is not based on the factual aspects. There is error on the face of the record. According to them, though the revision petitioners were set exparte in the final decree proceedings on 15.07.1996 in I.A.No.356 of 1997, an exparte Order was passed against revision petitioners on 22.04.1997 and the final decree was passed on 08.10.2001 on contest. In support of the same, the Order passed on 08.10.2001 is also placed before this Court, which is not disputed by the other side.

I have perused entire documents. The factual aspect recorded by this Court while allowing the Civil Revision Petition is found to be false. Infact the final decree has been passed only on 08.10.2001. It is contested Order wherein the Civil Revision Petitioners have also been represented by their counsel. Now it is their contention that only based on the contested Order



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dated 08.10.2001 passed in the Final decree, delivery has been Ordered by the Execution Court on 25.01.2005. Therefore, the submission of the learned counsel appearing for the revision petitioners are ill-founded. The copy of the final decree annexed in the typed set makes it clear that the final decree has been passed on merits and the parties have also been represented. The factual aspects recorded by this Court as if delivery has been effected in pursuant to the exparte final decree is an error apparent on the face of the record. Hence, as the Execution Court has passed an of Order for delivery on the basis of the final decree passed on merits, I do not find any merits in the Civil Revision Petition.

4. Accordingly, this Review Application in Rev.Appln.No.119 of 2007 is allowed and the Civil Revision Petition in CRP.No.1151 of 2005 is dismissed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

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Internet: Yes
Speaking/non speaking order

vrc

To,

The District Musif,
Hosur.



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N. SATHISH KUMAR, J.

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