



C.R.P.No.1891 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1891 of 2021
and C.M.P.No.29252 of 2023

D.Reddamma

... Petitioner

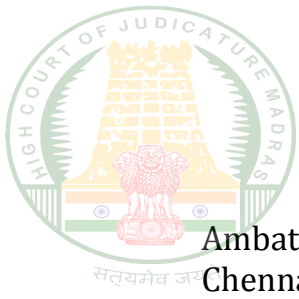
-Vs-

- 1.Kaja Mohideen
- 2.Kathoon Bivi
- 3.Sahul Hameed
- 4.Rafi Ahamed
- 5.Basheer Ahamed
- 6.Balasubramanian
- 7.Syed Gani
- 8.Mary
- 9.P.Gnanamani
- 10.Jayamani
- 11.Elizabeth
- 12.Geetha
- 13.Amutha
- 14.Sangeetha Raj
- 15.Sundar Raj

16.The Commissioner
Ambattur Municipality
Chennai - 600 053.

17.The Member Secretary
Chennai Metropolitan Development
Authority, No.8, Gandhi Irwin Road
Egmore, Chennai 600 008.

18.The Executive Engineer
Tamil Nadu Electricity Board



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Ambattur Township, Ambattur
Chennai (Respondents 6 & 8 to 18 not
necessary parties, hence given up).

... Respondents

Prayer : Civil Revision Petition under Section 115 of Civil Procedure Code to set aside the judgment and decree of the I Additional District Judge at Tiruvallur in CMA No.3 of 2018 dated 05.11.2019 in confirming the fair and decretal order of the Court of the District Munsif, Ambattur in IA No.929 of 2013 in IA No.1555 of 2008 in O.S.No.59 of 2004 dated 29.11.2007.

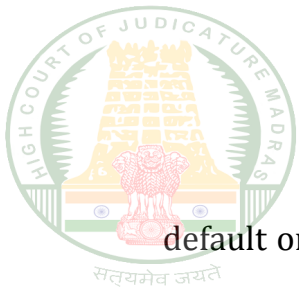
For Petitioner : Mr.P.Subba Reddy

For Respondents : RR 1,2 to 4 - Served, No appearance
R3 - died, RR 5 to 17 - Served through
paper publication
Mr.A.Anandan
Government Advocate - for R16
Mrs.Veena Suresh - for R17
Mr.S.T.Raja - for R18

ORDER

This revision challenges the order passed by the learned I Additional District Judge, Tiruvallur in CMA No.3 of 2018 dated 05.11.2019 in confirming the order of the learned District Munsif, Ambattur in I.A.No.929 of 2013 in I.A.No.1555 of 2008 in O.S.No.59 of 2004 dated 29.11.2017.

2. O.S.No.59 of 2004 is a suit for declaration of title and delivery of possession as against the private defendants. The suit had been dismissed for



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default on 08.03.2007. Immediately, without any delay an application was filed to restore the suit in I.A.No.1555 of 2008. The said application was allowed as against respondents 5 to 14 on 09.02.2011. Even earlier, the application had been allowed against the other respondents. On 09.02.2011, the learned trial Judge had ordered notice on respondents 1,3,6 and 15 to 18 through Court and post. Respondents 1 and 3 have already been set exparte on 23.12.2008 and restoration petition had also been allowed against them. Respondents 15,16 and 17 had been set exparte on 05.02.2010 and restoration application was also allowed. In the meantime, the plaintiff came to know that the sixth defendant had passed away in May 2011. Since steps had not been taken, the application was dismissed for default. In order to restore the said application, the plaintiff had filed I.A.No.929 of 2013. The learned District Munsif held that a Court should come to the assistance of only vigilant litigants and not for one who has slept over his rights, and consequently dismissed the said petition.

3. Aggrieved by the said order, the plaintiff preferred C.M.A.No.3 of 2018. The learned I Additional District Judge, Tiruvallur, agreed with the reasoning of the learned District Munsif and dismissed the appeal. Hence, this revision.

4. I heard Mr.P.Subba Reddy for the petitioner, Mr.A.Anandan, learned Government Advocate for the 16th respondent, Ms.Veena Suresh for the 17th respondent and Mr.S.T.Raja for the 18th respondent. Other respondents,



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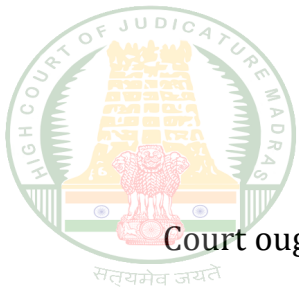
though served, have not entered appearance.

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5. Here is a case where the party pleads that she is the owner of the property and had moved the Court seeking its assistance to declare her title and delivery of possession from the hands of alleged unauthorised persons. In this suit, the 6th defendant had been served and he had remained exparte. A reading of the plaint shows that the 6th defendant does not have any independent right to the property, but happens to be the employee of defendants 1 to 5. Therefore, for the fact that an employee had passed away, does not mean steps should have been taken. Furthermore, the said defendant had remained exparte and by no stretch of imagination could have the plaintiff been in a position to get the details of the 6th defendant. In any event, in terms of Order XXII, there is no compulsion to bring on record legal representatives of a defendant, who has remained exparte.

6. In cases like this, where vital rights of immovable property are involved, the Court should adopt a procedure, which is in line with justice, equity and good conscience. The plaintiff had filed a restoration application insofar as the other defendants are concerned, and they had also remained exparte.

7. In the light of the above discussion, as I have taken a view that the trial



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Court ought to have taken a liberal view and come to the rescue of a person who has sought the orders of the Court to restore possession of the property, I think there is a good cause for restoration of the application. The Civil Revision Petition is allowed on the following terms.

- (a) The plaintiff shall deposits a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) for restoring I.A.No.929 of 2013, and a further sum of Rs.25,000/- (Rupees Twenty Five Thousand only) for allowing I.A.No.1555 of 2008 in O.S.No.59 of 2004 within a period of **eight weeks from today**.
- (b) On such deposit, the trial Court shall restore the suit on to its file. It shall issue fresh notice to the contesting private defendants and after service of summons on them, shall dispose of the suit as expeditiously as possible.
- (c) If the above condition of deposit is not complied with, the benefit granted by this order shall stand automatically forfeited.



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(d)The amount so deposited by the plaintiff can be withdrawn by respondents 1 to 5. Mr.Subba Reddy, learned counsel for the petitioner / plaintiff fairly concedes that the plaintiff will not oppose the application for withdrawal of the amounts deposited, if so filed.

8. The Civil Revision Petition is allowed accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

23.06.2025

Index : Yes/No

Neutral Citation : Yes/No

KST

To

- 1.The I Additional District Judge, Tiruvallur.
- 2.The District Munsif, Ambattur.



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V. LAKSHMINARAYANAN, J.

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