

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 22.07.2025

Order pronounced on : 08.08.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJICRP.Nos.1439 & 1440 of 2025
& CMP.No.8497 of 2025

S.T.Sivakumar

..Petitioner in both CRPs

Vs.

1.K.Ranganayaki
2.K.Padmanabhan @ Raji
3.S.Jaya4.The Sub-Registrar,
SRO Villivakkam,
Chennai – 600 049.

..Respondents in both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the docket order dated 27.02.2024 in I.A.No.3 of 2021 and I.A.No.1 of 2021 respectively in O.S.No.125 of 2015 on the file of the District Munsif Court, Ambattur.

For Petitioner : Mr.D.Ganesh Raj in both CRPs

For Respondents : Mr.E.Prabu for RR1 & 2 in both CRPs

Mr.N.Muthuvel
Government Advocate for R4 in both CRPs

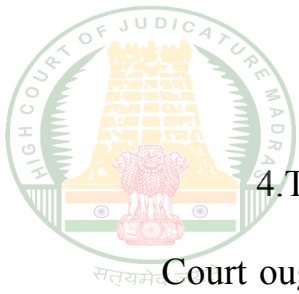
No appearance for R3 in both CRPs

**COMMON ORDER**

These revisions have been filed challenging the orders in I.A.No.1 and 3 of 2021 in O.S.No.125 of 2015 on the file of the District Munsif Court, Ambattur.

2.I have heard Mr.D.Ganesh Raj, learned counsel for the petitioner and Mr.E.Prabu, learned counsel for the respondents 1 and 2 and Mr.N.Muthuvel, learned Government Advocate for the 4th respondent in both the revisions.

3.The learned counsel for the petitioner would state that the suit has been filed for declaration and permanent injunction by the revision petitioner. The suit was not contested by the defendants 1 and 2 and in order to set aside the ex-parte decree and also condone the delay, the defendants 1 and 2 have filed applications to condone the delay of 1686 days in filing the set aside application to set aside the ex-parte decree dated 09.01.2017 and also an application for setting aside the ex-parte decree dated 09.01.2017. The said applications were taken up simultaneously and allowed and the suit has been restored to file.



4. The learned counsel for the petitioner firstly contends that the Trial Court ought not to have taken up both the Section 5 application and the Order IX Rule 13 application together and the approach is alleged to be faulty. He would further state that the Trial Court has allowed the application by way of a non speaking order and inviting my attention to the adjudication dated 27.02.2024, the learned counsel for the petitioner would state that finding that no counter has been filed, the Trial Court has passed the order stating that the petition has been perused and allowed. He would further state that no opportunity was granted to the petitioner to file counter and contest the said application. He would therefore pray for the revisions to be allowed and an opportunity to be granted to the revision petitioner.

5. Per contra, the learned counsel for the respondents 1 & 2 would submit that the revision under Article 227 of Constitution of India is not maintainable since an effective alternate remedy is available under Section 115 of CPC. He would also invite my attention to the fact that it is not as if no notice was served on the petitioner and inviting my attention to the affidavit filed in support of the condonation of delay application, the learned counsel for the petitioner would state that the revision petitioner has admitted to the fact that notice was served in the application and therefore, it is not open to the petitioner to cast



aspersions on the Trial Court, for not passing a detailed order when the revision petitioner did not even choose to contest the application by filing a counter affidavit. He would further state that the Trial Court has rightly allowed the applications and the same does not require interference in revision.

6I have carefully considered the submissions advanced by the learned counsel on either side.

7.Admittedly, an ex-parte decree came to be passed and three applications in I.A.Nos.1, 2 & 3 of 2021 were filed. I.A.No.2 of 2021 came to be allowed without hearing the revision petitioner. However, I.A.Nos.1 & 3 of 2021, despite opportunity granted for filing counter and no counter forthcoming from the revision petitioner, the Trial Court has proceeded to allow the applications. The restore petition and condone delay petition have been allowed. I had pointed out to both the learned counsel with regard to the cryptic one line order passed by the Trial Court and both the counsel have not been in a position to rely on any reasoned or detailed order passed by the Court below in allowing the applications for condonation of delay, as well as to restore the suit to file.



8. However, as rightly contended by the learned counsel for the respondents 1 and 2, it is seen that the revision petitioner was in fact served with notice in the said applications. It is only the 3rd respondent, Government side, who have made an endorsement that they do not intend to file counter. Though the matter was posted for filing counter and also for publication in respect of service of notice and subsequently, paper publication in respect of the 2nd respondent, it is seen that the revision petitioner admittedly did not file any counter. Therefore, the contention that notice was not ordered to the 1st respondent appears to be factually incorrect.

9. Be that as it may, in view of the fact that the applications were taken out during the peak lock down periods, no proceedings were conducted over several hearings and the matter was simply adjourned on the ground that Covid-19 lock down is in force.

10. In the light of the non speaking order passed by the Trial Court, I am inclined to set aside the order, with a direction to the Trial Court to give an opportunity to the petitioner to file a counter to the applications and thereafter, conduct due enquiry and dispose of the applications, preferably dealing with the Section 5 application first independently and thereafter, subject to result of



the Section 5 application, the setting aside application under IX Rule 13 of CPC shall be taken up thereafter and decided on merits and in accordance with law.

WEB COPY

The orders in I.A.Nos.1 and 3 of 2021 are set aside and the Trial Court is directed to call upon the revision petitioner to file a counter within a period of two weeks from the date of receipt of a copy of this order and within a period of four weeks thereafter, the condone delay application shall be decided on merits and in accordance with law and subject to the order passed in the condone delay application, further proceedings shall take place, as that may be required and if required, in the Order IX Rule 13 application seeking to set aside the ex-parte decree.

11.In view of the above, Civil Revision Petitions are allowed with the above directions and the order dated 27.02.2024 in I.A.No.3 of 2021 and I.A.No.1 of 2021 respectively in O.S.No.125 of 2015 on the file of the District Munsif Court, Ambattur, are set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

08.08.2025

Speaking/Non-speaking order
Index : Yes/No
ata



WEB COPY

CRP.Nos.1439 & 1440 of 2017



To

The District Munsif Court, Ambattur.



WEB COPY

CRP.Nos.1439 & 1440 of 2025



P.B.BALAJI.J.

ata

Pre-delivery order made in
CRP.Nos.1439 & 1440 of 2025
& CMP.No.8497 of 2025



WEB COPY

CRP.Nos.1439 & 1440 of 2



08.08.2025