



C.R.P. Nos.4744 of 2023, 3968, 3969,3970 and 4360 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.08.2025

Coram:

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

C.R.P. Nos.4744 of 2023, 3968, 3969,3970 and 4360 of 2017 and  
CMP Nos. 28161 of 2023 and 20725 of 2017

K.S. Rajendran

... Petitioner in all CRPs.

Vs.

1. V.Matheswaran
2. Vijayalakshmi
3. Swetha
4. Akshaya

... Respondents in all CRPs.

**Prayer in CRP No.4744 of 2023:** Civil Revision Petition filed under Article 227 of Constitution of India to set aside the judgment and decree dated 03.06.2010 passed in O.S.No.197 of 2009 on the file of Additional District Court (Fast Track Court-II) Salem.

**Prayer in CRP No.3968 of 2017:** Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decreetal order passed in R.E.A. No.7 of 2017 in R.E.P. No.495 of 2015 in O.S.No.197 of 2009 dated 01.07.2017 on the file of the III Additional District Court at Salem.

**Prayer in CRP No.3969 of 2017:** Civil Revision Petition filed under under



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Section 115 of CPC, to set aside the fair and decreetal order passed in I.A.No.700 of 2016 in O.S.No.197 of 2009 dated 01.07.2017 on the file of the III Additional District Court at Salem.

**Prayer in CRP No.3970 of 2017:** Civil Revision Petition filed under under Section 115 of CPC, to set aside the fair and decreetal order passed in I.A.No.701 of 2016 in O.S.No.197 of 2009 dated 01.07.2017 on the file of the III Additional District Court at Salem.

**Prayer in CRP No.4360 of 2017:** Civil Revision Petition filed under under Section 115 of CPC, to set aside the fair and decreetal order passed in R.E.A. No.8 of 2017 in R.E.P.No.495 of 2015 in O.S.No.197 of 2009 dated 01.07.2017 on the file of the III Additional District Court at Salem.

For Petitioner in all CRPs.

: Mr.C.Jagadish

For R1 in all CRPs.

: Mr.M.Baskaran

R2 to R4 in CRP Nos.3968, 3969, 3970

& 4360/2017

: set Ex-parte by this Court on 08.03.2023



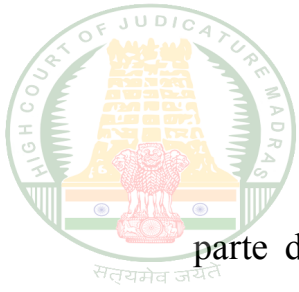
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## ORDER

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The petitioner who is the third party, has filed the petition in CRP No.4744 of 2023 challenging the judgment and decree dated 03.06.2010 passed in O.S.No.197 of 2009 on the file of Additional District (Fast Track Court-II) Salem and challenging the fair and decretal orders passed in R.E.A. No.7 of 2017 in R.E.P. No.495 of 2015, I.A.No.700 of 2016, I.A.No.701 of 2016 and R.E.A. No.8 of 2017 in R.E.P.No.495 of 2015 in O.S.No.197 of 2009 dated 01.07.2017 on the file of the III Additional District Court at Salem, he has filed the Civil Revision Petitions in CRP Nos.3968, 3969, 3970 and 4360 of 2017.

2. The learned counsel for the petitioner submitted that though the petitioner is a third party to the suit in O.S.No.197 of 2009, he is the owner of the suit properties and suppressing the fact, the first respondent/plaintiff entered into a sale agreement and filed the suit for specific performance and obtained an ex-parte decree on 03.06.2010 . Subsequently, based on the ex-



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parte decree passed in the said suit, the first respondent filed an execution

petition in REP.No.495 of 2015 to execute the sale and the same was ordered.

Only thereafter, the petitioner came to know about the ex-parte decree passed against his properties. Hence, the petitioner/3rd party filed petitions in R.E.A.

No.7 of 2017 in R.E.P. No.495 of 2015, I.A.No.700 of 2016, I.A.No.701 of

2016 and in R.E.A. No.8 of 2017 in R.E.P.No.495 of 2015 in O.S.No.197 of

2009 before III Additional District Court at Salem, to implead the petitioner as

4th defendant in the E.P. proceedings; to implead the petitioner as 4th

defendant in the suit proceedings; to condone the delay in filing the petition to

set aside the ex-parte decree passed in O.S.No.197 of 2009 and to set aside the

ex-parte order passed against the petitioner in R.E.P. However, the same were

dismissed by order dated 01.07.2017. Hence, challenging the same, the present

revision petitions in CRP Nos.3968, 3969, 3970 and 4360 of 2017 have been

filed by the revision petitioner/3rd party before this Court. Subsequently, the

petitioner filed the revision petition in CRP No.4744 of 2023 to set aside the



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judgment and decree dated 03.06.2010 passed in O.S.No.197 of 2009.

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3. The contention of the learned counsel for the petitioner/3rd party is that it is a collusive suit and further, the trial Court, without following the Order 20 of CPC and without framing of issues and discussing the points on merits, passed one line ex-parte judgment and decreed the suit with costs as prayed for, without any discussion on the averments made in the plaint or documents marked therein. Therefore, the petitioner/3rd party has filed the present revision petition in CRP No.4744 of 2023 invoking Article 227 of the Constitution of India to set aside the judgment and decree dated 03.06.2010 passed in O.S.No.197 of 2009 on the file of Additional District Court (Fast Track Court-II) Salem, since this Court has got a superintending power over the Subordinate Courts, for violation of any procedural lapses or proposition of law. He also placed reliance of the judgment of the Hon'ble Supreme Court and also this Court as follows:

**1. In 2019 SCC OnLine Mad 24914 (R.Stells Vs.**



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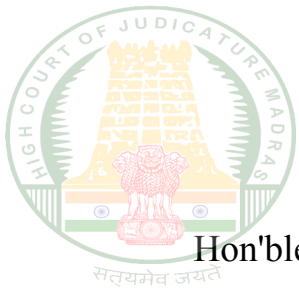
V.Antony Francis)

2. In 2011 (3) CTC 168 (Meenakshisundaram  
Textiles, Bangalore Vs.Valliamal Testixles Ltd.  
Tiruppur).

3. In C.R.P.No.4050 of 2024 dated 02.12.2024  
(S.Baskar Vs.S.Ranjithkumar and Others)

4. Heard and perused the materials available on record.

5. Admittedly, the petitioner is not a party to the suit in O.S.No.197 of 2009. Though, Article 227 of Constitution of India can be invoked by any party, in the present case, the ex-parte decree has been passed in the said suit in the year 2010, i.e. on 03.06.2010, whereas, the petitioner who is the third party, has filed the present revision petition in CRP No.4744 of 2023 invoking Article 227 of Constitution of India only in the year 2023, which is after a period of 12 years. There is no quarrel over the settled proposition of law laid down by the



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Hon'ble Supreme Court and this Court regarding the power of superintendence

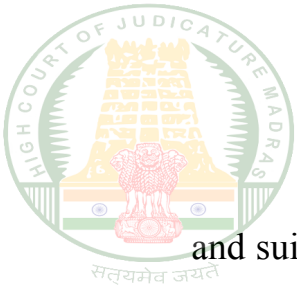
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over Subordinate Courts by invoking Article 227 of Constitution of India.

However, in this case, the petitioner/3rd party has not given any valid reason as to why he kept quiet for 12 long years and invoked Article 227 of Constitution of India only after lapse of 12 years. Therefore, this Court is of the opinion that the petitioner has not approached this Court with clean hands. The decisions referred to by the learned counsel for the petitioner are not applicable to the present case on hand. Therefore, this Court is not inclined to entertain this revision.

**6. Accordingly, the Civil Revision Petition in CRP No.4744 of 2023 is dismissed.**

7. Insofar as the revision petitions filed by the petitioner in CRP Nos.3968, 3969, 3970 and 4360 of 2017 are concerned, as stated above, the ex-parte decree has been passed in the year 2010 itself, i.e. on 03.06.2010, whereas the applications, to implead the petitioner as 4th defendant in the E.P.



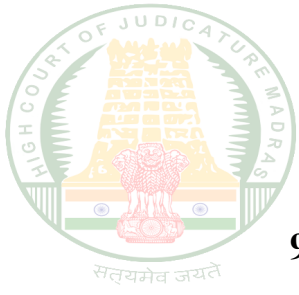
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and suit proceedings, to condone the delay in filing the petition to set aside the

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ex-parte decree passed in O.S.No.197 of 2009 and to set aside the ex-parte order passed against the petitioner in R.E.P, have been filed only in the years 2016 and 2017, stating that only after passing the order in the Execution Petition, the revision petitioner/3rd party had the knowledge about the ex-parte decree. However, there is no evidence to show that the revision petitioner/3rd party came to know about the passing of the ex-parte decree only after the order passed in the Execution Petition.

8. Further, when once the civil revision petition in CRP.No.4744 of 20223 filed, challenging the ex-parte decree, is dismissed by this Court as stated supra, the civil revision petitions filed for consequential relief of condoning the delay in filing the petition to set aside the ex-parte order and for impleading the petitioner/third party in the suit proceedings etc., would not arise. Under these circumstances, this Court finds no reason to interfere with the impugned orders passed by the trial Court.



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**9. Accordingly, the Civil Revision Petitions in CRP Nos.3968, 3969,**

**3970 and 4360 of 2017 are also dismissed.**

10. Consequently, all the connected Miscellaneous Petitions are closed

and there shall be no order as to costs.

25.08.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The III Additional District Court

Salem.

2. The Additional District Judge (Fast Track Court-II)

Salem.

3. The Record Keeper, V.R. Section, High Court, Madras.



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**P.VELMURUGAN,J.**

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