



C.R.P.(PD)(MD).No.273 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2025

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).Nos.273 & 339 of 2025
and CMP(MD).Nos.1591 & 1901 of 2025

Samuthiram (died)

Esakkiammal

... Petitioner

-VS-

1.Sundari

2.Masanam

3.Alagammal

4.Raji

5.Savithiri

6.Ananth

...Respondents

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.Nos.22 & 23 of 2024 in O.S.No.8 of 2014 dated 03.01.2025 on the file of the Sub Court, Ambasamudram by allowing these civil revision petitions.

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For Petitioner : Mr.P.P.Alwin Balan
In both revision petitions

COMMON ORDER

The defendant in O.S.No.8 of 2014 on the file of the Subordinate Court, Ambasamudram is the revision petitioner in both the revision petitions.

2.The said suit was filed for the relief of specific performance of the sale agreement dated 15.11.2011. The defendant had remained exparte and an exparte order for the first time came to be passed on 19.09.2016. Later, the exparte decree was set aside and the suit was restored. An exparte decree came to be passed as against the defendant for the second time on 09.09.2019. Again the defendant was lucky enough to get the exparte decree set aside. For the third time, the defendant was set exparte and an exparte judgment was delivered on 27.07.2023. At the instance of the defendant, the said exparte decree was set aside on 15.10.2024. Within 10 days, the defendant has filed I.A.No.22 of 2024 seeking to reopen and I.A.No.23 of 2024 seeking to recall PW2 for cross examination. These two applications have been dismissed by the trial Court on the ground that the



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defendant is attempting to drag on the proceedings. Challenging the same, the present civil revision petitions have been filed.

3. According to the learned counsel for the revision petitioner, one Murugan was examined as PW2. However, he has not turned up for cross examination. One Petchi was examined as PW3. Therefore, the defendant was under the impression that Petchi was arrayed as PW2 and hence, she filed an application to reopen PW2 for cross examination. The court has misunderstood the said application and dismissed the same on the ground that Petchi is PW3 and not PW2.

4. According to the learned counsel for the petitioner, in case a chance is given to the defendant, she would cross examine PW3 namely Petchi on a single day and she would co-operate for expeditious disposal of the suit.

5. I have considered the submissions and perused the material records.

6. The facts captured above will clearly indicate that the defendant has suffered ex parte decree thrice and she was successful in setting aside the ex parte decree. The suit is of the year 2014. Now the present application has been filed seeking to reopen the plaintiffs' side and



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to recall PW3 Petchi for cross examination. So far the defendant has not let in any evidence. It is also brought to the notice of the Court that the suit is posted for arguments on 12.02.2025.

7.In view of the above said facts, it is clear that the revision petitioner/defendant had not been careful enough in conducting the proceedings and she had been set exparte thrice and the suit has been restored on all three occasions. The present applications to reopen the plaintiffs' side evidence and to recall PW3 are not sustainable in the eye of law.

8.In the result, these Civil Revision Petitions stand dismissed.
No consequently, connected miscellaneous petitions are closed.

10.02.2025

Index : Yes/No
Internet : Yes/No
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To

- 1.The Sub Court, Ambasamudram
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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