



C.R..P.(PD)(MD).No.760 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.760 of 2025
and
C.M.P(MD) No.4030 of 2025

Mahalingam

... Petitioner/Petitioner
Plaintiff

Vs.

1. Rajamanickam Padaiyatchi

2. Saroja

3. Saminathan

4. Santhi

5. Veeramani

6. Bharathidasan

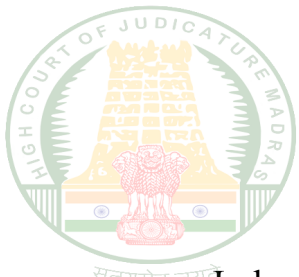
7. Gandhimathi

8. Rajalakshmi

... Respondents/
Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 20.08.2024 passed in I.A.No.4 of 2023 in O.S.No.76 of 2018, on the file of the learned Additional District and Sessions

1/5



C.R..P.(PD)(MD).No.760 of 2025

Judge (Fast Track Court), Kumbakonam and allow the above Civil Revision Petition.

For Petitioner : Mrs.C.Geetha

ORDER

The plaintiff in O.S.No.76 of 2018 on the file of the Principal District and Sessions Court, Thanjavur District, has filed the present Civil Revision Petition, wherein, the trial Court has dismissed his application under Order 9 Rule 7 of C.P.C.

2. A perusal of the records reveal that the above said suit has been filed by the plaintiff seeking partition and separate possession. An ex-parte decree came to be passed on 12.09.2018. The 7th defendant has filed I.A.No.135 of 2020 to condone the delay of 780 days in filing an application under Order 9 Rule 13 of C.P.C. The plaintiff has filed his counter on 14.09.2021. Under misconception that the plaintiff has not filed his counter, the plaintiff was set *ex parte* in I.A.No.135 of 2020 on 24.11.2022. Thereafter, the trial Court has proceeded to allow I.A.No.135 of 2020 on 31.01.2023. The trial Court has also allowed I.A.No.3 of 2023 filed under Order 9 Rule 13 of C.P.C., on 13.09.2023.



C.R..P.(PD)(MD).No.760 of 2025

WEB COPY

3. The plaintiff had filed I.A.No.4 of 2023 to set aside the *ex parte* order passed on 24.11.2022 in I.A.No.135 of 2020. This application has been dismissed by the trial Court on the ground that as on today I.A.No.135 of 2020 is not pending. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, though the plaintiff has filed his counter in I.A.No.135 of 2020, the trial Court has not noted the same and has erroneously set the plaintiff *ex parte* in I.A.No.135 of 2020.

5. This Court is of the considered opinion that an application under Order 9 Rule 7 of C.P.C., can be maintained only till final orders are passed in I.A.No.135 of 2020. On 31.01.2023, final orders have been passed in IA.No. 135 of 2020. In such circumstances, the trial Court cannot be found fault with for dismissing I.A.No.4 of 2023.

6. In view of the above said deliberations, this Civil Revision Petition stands disposed of with liberty to the petitioner to challenge the order in



C.R..P.(PD)(MD).No.760 of 2025

I.A.No.135 of 2020, if he is so advised. There shall be no order as to costs.

WEB COPY

Consequently connected Miscellaneous Petition is closed.

12.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Additional District and Sessions Judge,
(Fast Track Court), Kumbakonam.
2. The Principal District and Sessions Court,
Thanjavur District.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(PD)(MD).No.760 of 2025

R.VIJAYAKUMAR,J.

ebsi

C.R.P(MD)No.760 of 2025

12.03.2025