



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP Nos. 384 & 388 of 2022

and

C.M.P.Nos.2012 & 2022 of 2022

P. Banumathi

..Petitioner in both
C.R.P(s)

Vs

S. Ramamurthy

..Respondent in both
C.R.P(s)

Prayer in C.R.P.No.384 of 2022 : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the Order and decree dated 22-12-2021 in I.A.No.295 of 2016 in O.S.No.30/2013 on the file of Sub Court, Tirupattur, Vellore District and thus render justice.

Prayer in C.R.P.No.388 of 2022: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order and decree dated 22.12.2021 in E.A.No.55/2017 in E.P.No.13/2014 in O.S.No.30/2014 on the file of Sub Court, Tirupattur, Vellore District.

For Petitioner(s): Mr.R.Rajarajan
(in both C.R.Ps)

For Respondent(s): Mr.V.Vijayarajan
For Mr.V.R.Appaswamee
(in both C.R.Ps)



COMMON ORDER

C.R.P.No.384 of 2022 has been filed to set aside the to set aside the Order and decree dated 22-12-2021 in I.A.No.295 of 2016 in O.S.No.30/2013 on the file of Sub Court, Tirupattur, Vellore District and C.R.P.No.388 of 2022 has been filed to set aside the order and decree dated 22.12.2021 in E.A.No.55/2017 in E.P.No.13/2014 in O.S.No.30/2014 on the file of Sub Court, Tirupattur, Vellore District.

2. Heard Mr.R.Rajarajan, learned counsel for the petitioner and Mr.V.Vijayarajan, learned counsel, representing Mr.V.R.Appswamee, learned counsel for the sole respondent.

3. Mr.R.Rajarajan, learned counsel for the petitioner would submit that the respondent had instituted a suit for Specific Performance, in which she had also entered appearance, but however, due to the ill-health of the petitioner's husband, the petitioner had not filed the written statement, for which she was set *ex parte*, and thereafter, an *ex parte* decree had come to be passed. He would submit that the sale agreement, on which the suit had been laid, itself was a sham and nominal document, as what was entered between the petitioner and the respondent was only a money transaction, for which the petitioner had executed a sale agreement, which is common in the area. He would further



submit that the property, worth about Rs.60,00,000/-, could not have been agreed to be sold at the meagre price of Rs.7,00,000/-, and having paid a substantial amount of Rs.5,00,000/- and for the balance of Rs.2,00,000/-, the respondent could not have waited till the period of limitation and filed the suit.

4. He would submit that only on receipt of notice in the Execution Petition for delivery of possession, the petitioner had knowledge of the *ex parte* decree and *ex parte* order in the Execution Petition, and had taken necessary applications to set aside the decree and the *ex parte* order made in the Execution Petition. He would submit that the Court below, without considering the claim of the petitioner, particularly with regard to the said agreement of sale, had dismissed the Interlocutory Applications, which causes severe prejudice to the petitioner. He would submit that if the suit is taken for trial, the petitioner would be able to establish that the sale agreement itself was entered into for a loan that was granted to the petitioner. He would submit that the judgment and decree passed *ex parte* causes unjustifiable enrichment to the respondent and hence, he seeks indulgence of this Court.

5. Countering his arguments, Mr.Vijayarajan, learned counsel appearing for the respondent would submit that the petitioner had entered appearance through a counsel immediately on summons being served, but thereafter remained *ex parte*. Originally, an order of *ex parte* was passed and thereafter,



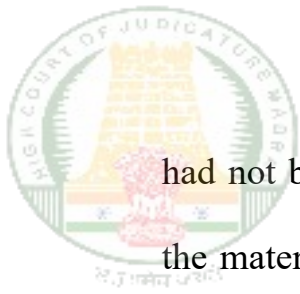
the suit came to be decreed in the month of December 2013. The respondent had preferred an Execution Petition, in which, on notice being served upon the petitioner, the petitioner had also entered appearance in the execution proceedings on 05.06.2014. Thereafter, along with the application to condone the delay, which came to be allowed by the Court on 23.07.2015 an application to set aside the *ex parte* decree was taken up, and as the petitioner had not taken any steps to serve notice of hearing and was also absent, the said petition came to be dismissed on 12.09.2015. He would submit that suppressing the aforesaid facts, after an *ex parte* order was passed in the Execution Petition, the petitioner had filed another application to set aside the decree as well as the *ex parte* order passed in the Execution Proceedings. He would submit that the said applications are not maintainable, as an earlier attempt taken by the petitioner to set aside the *ex parte* decree stood dismissed by the Court. Hence, he seek dismissal of the above revision petitions.

6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.



7. The petitioner, who had been served with the summons, had entered appearance in the suit through an Advocate. However, she had not filed the written statement. Hence, she was set *ex parte*, and an *ex parte* decree came to be passed on 05.12.2013. Thereafter, she had also been served with summons in the execution proceedings, in which also she had entered appearance through an Advocate on 05.06.2014. She had also taken steps to set aside the *ex parte* order along with an application to condone the delay. The delay application in I.A.No.272 of 2014 was allowed by the Court on 23.07.2015, and thereafter, the application to set aside the *ex parte* decree in I.A.No.118 of 2015 had been taken on file. In the same, by order dated 12.09.2015, as notice of hearing was not given by the petitioner and the petitioner had also remained absent on the said date, the petition had been dismissed for default. The petitioner had also allowed the execution petition to be ordered *ex parte*, and thereafter, taken out these applications to set aside the *ex parte* order in the suit as well as the *ex parte* order in the execution petition. Hence, as rightly pointed out by the learned counsel appearing for the respondent, the subsequent application filed by the petitioner to set aside the *ex parte* decree cannot be said to be maintainable at any stretch of imagination, in the context that the earlier application had been dismissed for non-prosecution.

8. This conduct of the petitioner would show that the petitioner, even though having knowledge of the *ex parte* decree as early as in the year 2014,



had not been diligent enough in prosecuting the *lis* and had further suppressed the material facts of filing of the earlier application for the very same relief in the present application. For this conduct of the petitioner, this Court is not inclined to grant any indulgence whatsoever.

9. For the aforesaid reasons, both the Civil Revision Petitions fail and accordingly, stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

26-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Sub Court, Tirupattur,
Vellore District.



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K.KUMARESH BABU J.

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