



WEB COPY

CMP No. 8311 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMP No. 8311 of 2026
in CRP.No.1043 of 2020

Umavathy
W/o Thangavel,
Proprietor Of M/S Utn Pumps And Motors,
S.F.No.42, Fci Road, Indira Nagar, Ganapathy,
Coimbatore,
Pre Res At D.No.8 ATR Nagar,
Manoj Illam, FCI Road, Ganapathy, Coimbatore -
641 006.

..Appellant(s)

Vs

1. M.Krishnamoorthy
S/O Mayilsamy Gounder,
Res At D.No.1, Indira Nagar,
Manoj Illam,
Ganapathy,
FCI Road,
Coimbatore-641 006.
2. Barathi
W/o.Krishnamoorthy
Res At D.No.1, Indira Nagar,
Manoj Illam,Ganapathy,FCI Road,
Coimbatore-641 006.
3. Manoj Kumar
S/o.M.Krishnamoorthy,
Res At D.No.1, Indira Nagar,
Manoj Illam, FCI Road,Ganapathy,
FCI Road,Coimbatore-641 006

..Respondent(s)



PRAYER:- Civil Miscellaneous Petition filed to rehear the C.R.P No.1043 of 2020 which was allowed on 01.12.2023 and thus render justice.

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For Appellant(s): Mr.C.R. Prasanan

For Respondent(s): Mr.D.Ravichander

ORDER

This Civil Miscellaneous Petition filed to rehear the C.R.P No.1043 of 2020 which was allowed on 01.12.2023.

2. Heard Mr.C.R. Prasanan, learned counsel for the petitioner and Mr.D.Ravichander, learned counsel for the respondents.

3. Mr.C.R. Prasanan, learned counsel for the petitioner would submit that an order which had been benefitted to the petitioner had been set aside noting that there was no appearance on the side of the petitioner, in spite of there being a counsel who undertook to file Vakalath on behalf of her. However, he would submit that the learned Judge had held that the amendment that was sought for was beyond the period of limitation which is contrary to law. A prayer for mandatory injunction to hand over the possession was made in the context of the respondent having entered into the suit property by force during the visit of the learned Advocate Commissioner appointed by this Court and for recovery of possession, 12 years time limit is available under Article 65 of the Limitation

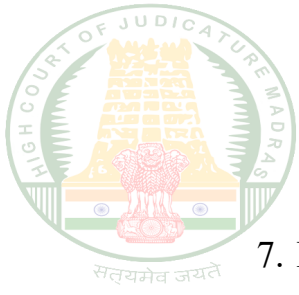


Act and therefore, it is necessary that this Court rehears the matter and pass orders on merits after hearing the petitioner. Hence, he seeks indulgence of this Court.

4. Countering his arguments, Mr.D.Ravichander, learned counsel appearing for the respondents would contend that even in the order dated 01.12.2023, this Court had recorded that in an earlier hearing, the petitioner was represented by a counsel, present before this Court who had sought time but had failed to file Vakalath. On the said date the name of the petitioner was also printed in the cause list and there was no appearance on her behalf. Therefore, he would submit that the petitioner cannot be said to be a person who had no knowledge of the present proceedings and therefore, no indulgence should be given to rehear.

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

6. The Revision Petition had been disposed recording that the respondent therein has not appeared and this Court had recorded a finding of fact that a counsel had appeared before this Court and had undertaken to file Vakalath and that no Vakalath had been filed and the name of the respondent was also printed in the cause list.



7. It is not disputed that a learned counsel had appeared on behalf of the respondent on an earlier occasion by undertaking to file Vakalath but had failed to enter appearance on her behalf. For the fault of an Advocate, who had been appointed by the petitioner, the petitioner cannot be allowed to suffer. Only for said reasons, this Court is of the view that the order dated 01.12.2023 is liable to be recalled and be heard on merits.

8. Accordingly, the CMP stands allowed and the order dated 01.12.2023 stands recalled. As a sequel, the CRP stands restored.

15-04-2026

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

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K.KUMARESH BABU, J.

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