



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 1729 of 2024

C.M.P.No.9100 of 2024

Sundarambal @ Indira

..Petitioner(s)

Vs

K.Murugesan

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the Fair and Decretal order dated 08.02.2024 made in Unnumbered I.A.SR.No. of 2024 in O.S.No.205/2017 on the file of II Additional District and Sessions Court, Salem, by allowing this Civil Revision Petition.

For Petitioner(s):	Mr.R.Darshan for Mr.N.Manoharan
For Respondent(s):	M/s. D.M. Senthil Kumaar

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner under Section 10 of Code of Civil Procedure even without numbering.

2.The respondent herein filed a suit for declaration of title and recovery of possession. The petitioner herein who was arrayed as first defendant in the suit filed instant application seeking stay of the suit under Section 10 of Code of



Civil Procedure. According to the petitioner she filed a suit for declaration of title and injunction in respect of the very same suit property in O.S.No.86 of 2008 on the file of I Additional Sub Court, Salem and the said suit was decreed. Aggrieved by the same, the respondent herein filed an appeal in A.S.No.72 of 2014 on the file of District Court, Salem. The said appeal was allowed and the suit filed by the petitioner got dismissed. Aggrieved by the said judgment and decree the petitioner preferred S.A.No.240 of 2016 and the same is still pending. In view of the pendency of the second appeal the petitioner filed the present application invoking Section 10 of Code of Civil Procedure. The said application was dismissed by the trial Court even without numbering. Aggrieved by the same, the petitioner has come before this Court.

3.A perusal of the impugned order would indicate while dismissing the instant application the trial Court recorded that petitioner wanted to file an appeal against order passed in C.R.P.No.353 of 2020 which was filed challenging the order dismissing the application seeking rejection of the plaint. It is further observed in the impugned order against the order passed in revision no second revision will lie. Therefore, petition filed under Section 10 of Code of Civil Procedure is not maintainable. The reading of the impugned order would demonstrate the trial Court has not gone through the affidavit filed by the petitioner in support of the Section 10 of C.P.C. application. The petitioner wants stay of the instant suit on the ground the issue involved in the present suit



and the issue involved in the second appeal are one and the same. Without appreciating the averments found in the affidavit filed in support of the Section 10 application, the trial Court dismissed the instant application even without numbering. Therefore, the impugned order is set aside and the trial Court is directed to number the application filed by the petitioner under Section 10 of Civil Procedure Code, if it is otherwise in order and dispose of the same in accordance with law after affording reasonable opportunity to the respondent. Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To:-

II Additional District and Sessions Court, Salem.



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S.SOUNTCHAR, J.

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