



WEB COPY

CRP No. 2468 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 2468 of 2026
and CMP.No.10508 of 2026**

Balamurugan
S/o. Rathinakumar,
Res. at No.1A, MS Homes,
Sri Ambal Nagar, Madampakkam,
Guduvancheri, Chennai-603 202.

..Petitioner(s)

Vs

1. Theeran
S/o. Thanga Durai,
Res. at No.122 c/26, West Raja Street,
Kancheepuram.
2. T.Vasan
S/o. Thanga Durai,
Res. at No.122 c/26, West Raja Street,
Kancheepuram.

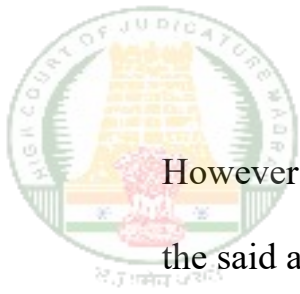
..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair order and decretal order dated 05.03.2026 in I.A.No.16/2026 in O.S.No.100/2011, on the file of the Principal District Munsif Court. Kancheepuram and pass such further or other orders as this Honble Court.

For Petitioner(s): MS.Srimathi V.

ORDER

Before the commencement of trial, the second defendant filed an application to set aside the ex parte order dated 02.11.2012 passed against him.



However, the Court below, without affording sufficient opportunity, dismissed the said application. Aggrieved by the same, the present revision has been filed.

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2. On a perusal of the order of the trial Court, it is seen that the learned Judge dismissed the application after nearly fifteen years, without assigning proper reasons, which is erroneous and unsustainable.

3. The records reveal that the plaintiffs (respondents 1 and 2) filed the suit in O.S. No.100 of 2011 seeking a declaration in respect of three sale deeds. The case of the plaintiffs is that the first defendant, acting through the power of attorney (third defendant), executed sale deeds in favour of defendants 5, 6, and 7.

4. According to the second defendant, no proper notice was served on him, and therefore, he was unaware of the proceedings, resulting in his being set ex parte. Upon coming to know of the same, he filed the present application to set aside the ex parte order along with a written statement. However, the trial Court dismissed the application on the ground that no sufficient reason was given for his non-appearance for nearly fifteen years.

5. At present, the trial has commenced and the matter stands posted for examination of D.W.1. The plaintiffs have also alleged that the second



defendant settled the property in favour of the first defendant, who in turn sold it to the fourth defendant in the year 2007. Hence, the role of the second defendant is seriously disputed. The subsequent purchasers (defendants 5 to 7) claim title under sale deeds dated 21.11.2007.

6. The second defendant, on the other hand, claims that he is the adopted son of the first defendant and has a valid defence to contest the suit. Since the allegations in the plaint revolve around defendants 1 and 2, the second defendant must be given an opportunity to put forth his defence and disprove the plaintiffs' claims.

7. In such circumstances, this Court is of the view that the trial Court erred in dismissing the application without affording an opportunity to the second defendant. Accordingly, the second defendant is permitted to participate in the proceedings and put forth his defence. Liberty is also granted to the plaintiffs to proceed with the suit in accordance with law.

8. Considering that the suit is of the year 2011, the trial Court is directed to dispose of the same within a period of three months, after affording sufficient opportunity to all parties.



9. In the result, this Civil Revision Petition is disposed of. No costs.

Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MPA



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To

1. The Principal District Munsif Court. Kancheepuram.
2. The Section Officer, V.R.Section, High Court, Madras.



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T.V.THAMILSELVI, J.

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