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CMP No. 24007 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CMP No. 24007 of 2023
in CRP No. 1071 of 2021**

Vijaya

..Petitioner(s)/
Respondent(s)

Vs

M.S.Sasidharan

..Respondent(s)/
Respondent(s)

Prayer : To recall the order dated 28-04-2023 passed in CRP.No.1071 of 2021 and thus render justice.

For Appellant(s):	Mr.S.Senthil
For Respondent(s):	Mr.K.Ramanraj

ORDER

This petition has been filed to recall the order dated 28-04-2023 passed in CRP.No.1071 of 2021.

2. The learned counsel for the petitioner would submit that the petitioner had instituted a suit for declaration to declare that she is the owner of 'A' schedule property, to declare the settlement deed dated 14.01.2016 executed by one Mr.Arumugam in favour of the respondent in respect to the same is not legally enforceable and for consequential permanent injunction restraining him



from in any manner interfering with the peaceful possession and enjoyment of the 'B' schedule property. In the said suit, the respondent had taken out an application to reject the plaint and the same came to be dismissed, against which the present revision had been filed.

3. He would submit that no notice was served on the petitioner in the above Revision, but was only served upon the counsel for the petitioner, who had also passed away on 05.10.2022. However, the Court in the order had recorded that on perusal of the cause-list, it was found that the respondent had served and proceeded to dispose of the revision by allowing the application filed by the respondent under Order VII Rule 11 and thereby dismissing the suit. He would submit that he had not been heard. Hence, he would submit that the petitioner was unable to present herself before this Court in effectively defending the revision. Hence, he seeks this Court indulgence to recall the order and hear the revision on merits.

4. Countering his arguments, the learned counsel for the respondent would submit that the above Revision originally came before this Court on 14.06.2021, when this Court had admitted the same and directed for issuance of notice on the respondent. On the very same date, this Court had also inclined to



grant an order of stay. The respondent had also taken steps to serve the petitioner both through the Court and also through registered post.

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5. He would also submit that the respondent had filed an affidavit of service enclosing an acknowledgment card evidencing the receipt of such private notice by the petitioner.

6. The Court notice was also served on the counsel on 15.07.2021 much before the date of death of the said counsel.

7. He would further submit that the record of the Court proceedings would also indicate that the suit had been time and again adjourned recording the pendency of the Civil Revision Petition noting the stay granted by this Court. Hence, he would submit that the contention of the petitioner, who is the plaintiff in the suit that she was not aware of the pendency of the Civil Revision Petition as notice has not been served is contrary to the facts, and indulgence need not be shown to such a person, who has suppressed the receipt of the private notice, that was served upon to her, and prays this Court to dismiss the revision.



8. I have considered the submissions made by the learned counsel appearing on either side. I have also gone through the materials available on record.

9. In the present revision, this Court had ordered notice on 14.06.2021 by admitting the same and had also granted an order of interim stay of the proceedings. The Court records reveal that counsel for the petitioner had been served with the notice in the Civil Revision Petition which is noted to have been received on 15.07.2021 and admittedly the counsel for the petitioner before the trial Court had only died in the month of October 2022.

10. Even assuming that the petitioner's counsel before the trial Court had not intimated the pendency of the Civil Revision no explanation had been given by the petitioner of receipt of the private notice which she had herself signed.

11. A perusal of the affidavit of service filed by the respondent(s) in USR 22035 on 05.08.2021 would indicate that the petitioner was delivered with the notice in the instant revision and the miscellaneous petition on 16.07.2021.

12. As rightly by the learned counsel appearing for the respondent, the petitioner had not made any averments with regard to the service of notice by



registered post sent by the counsel for the respondent and that would wholly amount to suppression of material facts. Further the online case status placed on record by the respondent would also indicate that the Court below had recorded as early as 12.03.2021 that there are certain proceedings pending including a Civil Revision Petition. In fact, in the Court proceedings on 14.09.2021 stay of the suit has also been recorded and had been adjourned time and again till the disposal of the civil revision petition.

13. In fact, it is surprising to note that the Civil Revision Petition had been disposed of in the month of March 2023 and the suit was kept pending on the file of the trial Court even thereafter as the said e-Court would indicate that the stay of the suit was recorded even till 06.11.2023.

14. As rightly pointed out by the learned counsel for the respondent no reasons have been attributed by the petitioner as to why she had not taken any steps to approach this Court, when the trial Court itself had recorded the stay of the proceedings at least from the year 2022 till the disposal in March 2023.



15. For the aforesaid reasons, I do not find any merits in the Civil Miscellaneous Petition and accordingly, the same is dismissed. No order as to costs.

11-03-2026

Maya

To

The Sessions Judge
Fast Track Mahila Court
Namakkal.



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K.KUMARESH BABU, J.

Maya

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