



C.R.P. No.22 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.R.P. No.22 of 2023
and C.M.P. No.189 of 2023

Sheela

... Petitioner/ 2nd Defendant/ Petitioner

Vs

1. Sri Pattabirama Swamigal, Bajanai Koil,
A. Kolathur,
Rep. By its Trustee Mohan,
S/o. Munibabu Rama Reddiar,
No.23A, Kolathur Village & Post,
Thozhupedu Via, Cheyyur Taluk,
Chengalpet District.

... 1st Respondent/ Plaintiff/ 1st Respondent

2. Shalini

... 2nd Respondent/ 1st Defendant/ 2nd Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair & Decretal Order dated 21.07.2022 passed in I.A.No.267 of 2021 in O.S.No.135 of 2020 on the file of the District Munsif Cum Judicial Magistrate Court, Cheyyur.

For Petitioners : Mr. K. Govi Ganesan

For R1 : Mr. N. Nagu Sah

For R2 : Not ready in notice

ORDER



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This Civil Revision Petition was filed challenging the order dated 21.07.2022 passed in I.A.No.267 of 2021 in O.S.No.135 of 2020 on the file of the District Munsif-Cum-Judicial Magistrate Court, Cheyyur, wherein the petitioner herein, filed a petition seeking direction to the Sub Registrar, Acharapakkam to remove the encumbrance dated 15.11.2017 bearing Document No.18 of 2017 created by the first respondent/ plaintiff.

2. The facts leading to filing of this civil revision petition is that, the petitioner herein was the second defendant in the suit in O.S.No.135 of 2020 (Old O.S.No.180 of 2016) filed by the first respondent herein and since, she had not filed her written statement within the prescribed time limit, she was set ex-parte. Subsequently, ex-parte decree was passed by an order dated 09.10.2017 and this decree was also registered on the file of the Sub Registrar, Acharapakkam, vide Document No.18 of 2017, which created encumbrance in respect of the suit property. Thereafter, the petitioner/ second defendant filed a petition before the Trial Court to set aside the ex-parte decree against her, which was allowed by the Trial Court by an order dated 27.11.2019. Thereafter, the petitioner had come forward with the petition in I.A.No.267 of 2021 before the Trial Court, seeking for a direction to the Sub Registrar, Acharapakkam, to remove the aforesaid encumbrance created by the plaintiff/



first respondent herein. The Trial Court, after considering the merits of the claim, rejected the petition filed by the petitioner herein. Aggrieved over the rejection of the above petition, the petitioner was constrained to file this Civil Revision Petition.

3. The learned counsel appearing for the petitioner contended that, though the petition was filed seeking direction to the Sub Registrar, Acharapakkam to remove the encumbrance created in the suit property, the Trial Court had gone into the merits of the claim of the petitioner herein, in the petition filed by her and held that the petitioner/ second defendant is not having any right over the suit property, as per the sale deed registered dated 10.08.2016, which is unwarranted. He also submitted that, since the petitioner was seeking direction, based on the order dated 27.11.2019, setting aside the ex-parte decree passed by the Trial Court, it is appropriate for the Trial Court to issue direction to remove the ex-parte decree entry made by the plaintiff on the file of the Sub Registrar, Acharapakkam. Hence prays to set aside the order of the Trial Court and allow this civil revision petition.

4. The learned counsel appearing for the respondent submitted that, the Trial Court has properly appreciated the case of both sides and held that the Sub Registrar, Acharapakkam is not a party to the proceedings, hence a direction could not be ordered. He further submitted that the ex-parte decree

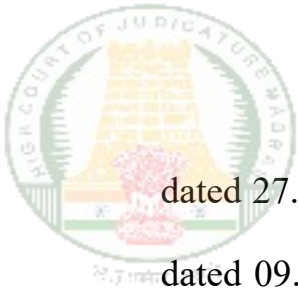


dated 09.10.2017 was registered and now, the said ex-parte decree was set aside by an order dated 27.11.2019, therefore, the copy of the subsequent order to set aside the ex-parte order is also permissible to be registered. Hence if the same is registered, it would nullify the earlier encumbrance dated 15.11.2017, made on the file of the Sub Registrar, Acharapakkam and opposed this petition.

5. Heard both sides and perused the materials available on record.

6. It was seen from the order of the Trial Court that, the Trial Court had elaborately considered the issue regarding the title of the second defendant in the suit property. Whereas, the direction sought by the petitioner in her petition is based on the order dated 27.11.2019 passed by the Trial Court, in setting aside the ex-parte decree as against the petitioner, hence this Court is of the view that entering into the merits of the claim is unwarranted. Since the petitioner had already succeeded in obtaining an order for setting aside the ex-parte decree, the same can also be very well registered. If done so, the encumbrance created in the suit property, with regard to passing of the ex-parte decree dated 09.10.2017 can be nullified and in such a way, it would bring quietus to the matter.

7. In view of the above, the petitioner is at liberty to register the order



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dated 27.11.2019 passed by the Trial Court, in setting aside the ex-parte decree dated 09.10.2017, on the file of the Sub Registrar, Acharapakkam. In respect of the findings recorded by the Trial Court, on the merits of the claim made by the petitioner herein, regarding the title of the second defendant in the suit property, shall not be taken as a final one and the same shall only be decided at the time of trial, after recording the evidence.

8. In the result, this civil revision petition is disposed of in the above terms. Consequently, connected civil miscellaneous petition stands closed. There shall be no order as to costs.

01.04.2026

stn

K. RAJASEKAR, J.

stn

To

The District Munsif-Cum-Judicial Magistrate,
Cheyyur.

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