**Application for restoration of \_\_\_\_\_\_\_\_ dismissed in default**

IN THE COURT OF THE DISTRICT

 ……………………..

App. No.: \_\_\_\_\_\_ of 2009

 in \_\_\_\_\_\_ No.: \_\_\_\_\_\_

…………………………………………………………………………………………………….……Applicant

Versus

……………………………………………………………………………………….……………………Respondent/Non-Applicants

Application for restoration of \_\_\_\_\_\_\_\_\_\_ dismissed in default

Respectfully Sheweth:

1. That the above noted \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was filed in this Hon'ble Court by the applicant on \_\_\_\_\_\_\_.

2. That when the above noted case came up for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_, this Hon'ble Court was pleased to dismiss the same in default. The applicant or his counsel could not put up appearance before this Hon'ble Court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ due to reasons that \_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

3. That the absence of the applicant on the date of hearing was neither intentional nor willful, but for the good and sufficient reasons hereinabove stated. Interest of justice therefore, demands that the case is restored to its original position so that the substantial dispute involved in the case can be adjudicated upon on its merit by this Hon'ble court.

4. It is, therefore, most respectfully prayed that this application may kindly be allowed and the above case may kindly be restored to its original position in the interest of justice. Such other orders may kindly also be passed as deemed fit and proper in the facts and circumstances of case.

……………………...

Applicant

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Through, Advocate

**IN THE COURT OF THE DISTRICT**

………………………………….

App No.:\_\_\_\_\_\_ of 2009

 \_\_\_\_\_\_ No: \_\_\_\_\_\_

……………………………………………………………………Applicant

Versus

……………………………………………………………Respondents

Affidavit in support of Application for restoration.

I,\_\_\_\_\_\_,

 do hereby solemnly affirm and declare as under :

1. That accompanying application has been prepared under my instructions.

2. That the contents of paras 1 to \_\_\_\_\_\_\_\_ of the complaint are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therefor.

Affirmed at ………………………….

 this the \_\_\_\_\_\_.

Deponent

**Revision Petition under Section ……………………………., against the order of the \_\_\_\_\_\_\_**

BEFORE THE HON'BLE FINANCIAL COMMISSIONER, …………………………………..

Revision Petition No:\_\_\_\_\_\_ of 20……………….

……………………………………………………………….Revision Petitioner

Versus

…………………………………………………………………..Respondents

Revision Petition under Section ……………………………………….., against the order of the \_\_\_\_\_\_\_

Respectfully Sheweth:-

1. That briefly stated the facts of the case are that on

2. \_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

GROUNDS

3. That the humble Petitioner is invoking the jurisdiction of this Hon'ble Commission and seeking indulgence on the following grounds amongst others each one of which is without prejudice to and independent of other :-

(a) That the Ld. Divisional Commissioner did not take into consideration the facts on record that the respondent No. 1 has got the land demarcated the land comprised in Khasara No. 293 situated at Salem on so many occasions through the Revenue agencies and agreed with the demarcation report. Hence, the respondent No. 1 is stopped due to his own, acts, deeds and conducts from challenging the demarcation reports once he has accepted the same at the spot.
(b) That the respondent No. 1 moved his first application for the demarcation of the aforesaid land on …….…./………../…………………….and the land was demarcated accordingly on his application on ….…./…………/………………….…. and the respondent No. 1 has made his specific statement admitting the aforesaid demarcation to be correct. Hence, it is amply apparent from the subsequent conduct of the respondent No. 1 that he just wants to harass the petitioner by creating multifarious litigation and his such an act is abuse of the process of law.

(c) That in the demarcation carried out on ……..…./……….…./………………… by the Field --------------------------, it was reported in detail of the spot that boundaries of the both fields are intact on the spot an the same spot report as well as the spot facts were ascertained by the Ld. --------------------------------- and he also passed a detailed order with regard to this on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_-. The respondent No. 1 having once accepted the said report had no right whatsoever to go in appeal against the same and the Ld. courts below have gravely erred in law by accepting his appeal.

(d) That the SDO (C) while passing the order dated 30.07.1996 did not afford the opportunity of being heard to the petitioner and thus the order of the SDO (C) were bad in law. The Ld. Commissioner below has also erred in law by upholding the said orders of the Ld. SDO (C) and dismissing the appeal of the present petitioner.

e) That the Ld. SDO (C) and the Ld. Commissioner below have drawn wrong inferences from the record and the facts proved on record, thereby resulting in the grave miscarriage of justice.

(f) That the Ld. Divisional Commissioner has also failed to take into consideration the submission of the petitioners that the demarcation of the boundaries is a quasi statutory function and the SDO (C) in his supervisory jurisdiction cannot set aside the demarcation given by the Assistant Collector II Gde. Both the Ld. courts below have erred in exercise of jurisdiction vested with them in accordance with law.

(g) That the order passed by the Ld. Commissioner below is against the well settled principles of law laid down by the Hon'ble Apex Court and the Hon'ble High Court in catena of cases.

(h) That the land of the respondent No. 1 is at the lower level abutting the land of the petitioner and house of the petitioner and there is and old DUNGA about 8 to 10 feet of height in between the old boundaries between two plots of the petitioner and the respondent No. 1.

(i) That the Ld. courts below have wrongly appreciated argument advanced by the counsel of the petitioner.

5. That the revision petition is within the period of limitation after deducting the time spent on obtaining the copy.

6. It is, therefore, most respectfully prayed that the following relief’s may kindly be granted in favour of the petitioner:-

(a) Call for the record of the courts below;

(b) Accept the present Revision Petition to the extent that the demarcation carried out by the Field ------------------- and confirmed by the Asstt Collector Gde-II dated --------------- is correct;

(c) Declare that the orders passed by the Ld. Divisional Commissioner dated -------------- is wrong and illegal;

(d) Quash the order passed by the Ld. Divisional Commissioner dated ---------------- being wrong and illegal;
(e) Allow the cost of the revision petition;

(f) Pass such other orders as deemed fit and proper in the facts and circumstances of the case.

…………………………………….

Revision Petitioner

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Through, Advocate

**BEFORE THE HON'BLE FINANCIAL COMMISSIONER,**

 ………………………………………

Application No:\_\_\_\_\_\_ of 20………………

Revision Petition No:\_\_\_\_\_\_ of 20.,……..

In the matter of:

…………………………………………………………………………………….……Revision Petitioner/Applicant

Versus

…………………………………………………………………………………………..Respondents/Non-Applicants

Stay Application under Order 41 Rule 5 CPC for the suspension of the operation of order dated \_\_\_\_\_\_\_\_\_

Respectfully Sheweth:

1. That the applicant/petitioner has filed above Revision Petitioner before this Hon'ble court hearing whereof will take some time.

2. That it is apparent from the grounds of revision petition and documents attached therewith that the petitioner/applicant has prima facie a very good case in his favour and the Revision Petition is going to be succeeded. Balance of convenience is in favour of the petitioner/applicant.

3. That the interest of justice demands that during the pendency of the revision petition \_\_\_\_\_\_\_\_\_\_\_\_\_. In case the operation of the above order is allowed to continue, the petitioner will suffer irreparable loss and injury which cannot be compensated in terms of money and filing of this Revision Petition will become in fructuous.

4. It is, therefore, most respectfully prayed that operation of order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ may kindly be stayed during the pendency of this Revision Petition in the interest of justice. Such other order be also passed as deemed fit and proper in the facts and circumstances of the case in favour of the petitioner/applicant.

………………………………….……….

Revision Petitioner/Applicant

\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Through, Advocate

**BEFORE THE HON'BLE FINANCIAL COMMISSIONER,**

 **……………………………………….**

Application No:\_\_\_\_\_\_ of 20……..

Revision Petition No:\_\_\_\_\_\_ of 20……

…………………………………………………….Revision Petitioner/Applicant

Versus

………………………………………………………Respondents/Non-Applicants

Affidavit in support of Application under Order 41 Rule 5 of the CPC

I,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:-

1. That the accompanying application has been prepared under my instructions.

2. That the contents of paras 1 to 4 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true, no part of it is false and nothing material has been concealed therein.

Affirmed here at ……………………… on \_\_\_\_\_\_.

Deponent

PROCESS FEE