



WEB COPY

CRP No.4085 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No.4085 of 2024

AND

CMP NO. 22472 of 2024

- 1.Velu
- 2.Thadikaran

..Petitioner(s)

Vs

Annakkari Pillai (Deceased)

1. Annamalai
2. Vijayakumar
3. Dhanalakshmi
4. Poovayi
- 5.The Taluk Surveyor,
Chinna Salem Taluk,
Kallakurichi District.

(5th Respondent is suo motu impleaded
vide Court Order dated 04.10.2024).

..Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the order dated 28.08.2024 passed by the learned Principal District Munisf at Kallakuruchi in E.P. No.35 of 2022 in O.S. No.350 of 1997.

For Petitioner(s):	Mr.A.K.Rajaraman
For Respondent(s):	Mr.P.Dinesh Kumar for R1 to R4
	Mr.P.Sunil, Government Advocate for R5

ORDER

Heard learned counsel for the petitioners, Mr.A.K.Rajaraman, Mr.P.Dinesh Kumar, learned counsel for the respondents 1 to 4 and Mr. P.Sunil, learned Government Advocate, appearing for the 5th respondent.



2. The petitioners challenge an order of arrest in Execution Proceedings consequent to failure of compliance of an order passed by the Executing Court to remove the obstructions in the pathway in terms of the decree passed in O.S. No.350 of 1997. Admittedly, the decree passed in O.S. No.350 of 1997, has become final with the dismissal of the First Appeal preferred by the revision petitioners before the District Court. There is admittedly, no Second Appeal challenging the concurrent findings in favour of the respondents/decree holders. Pending execution, the Executing Court had given one opportunity to the petitioners to remove the obstructions that have been put up to enable the respondents to enjoy the access, to which, they have become entitled to by way of a relief of permanent injunction in the suit. For non compliance, the order of arrest has been passed.

3. Mr.A.K.Rajaraman, learned counsel for the petitioners states that the petitioners are attempting to enter the patta lands of the revision petitioners, though there are alternate Poramboke lands available to be used as ingress and egress by the plaintiffs/decree holders. He would further state that the petitioners have no objection, if the respondents are permitted to use the pathway going by the Survey Numbers, originally mentioned in the plaint. He would also refer to the report filed by the Tahsildar, Chinnasalem, which was filed pending the revision, where there is a reference with regard to the subdivisions that have been effected subsequent to filing of the suit and that the



lands are patta lands belonging to the petitioners. It is also therefore, the submission of the learned counsel for the petitioners that the respondents cannot enter upon the patta lands belonging to the petitioners and they can only limit the enjoyment of the pathway in terms of the Survey Numbers that have been originally mentioned in the decree.

4. Per contra, Mr.P.Dinesh Kumar, the respondent/decree holders has taken me through the evidence recorded before the Executing Court where the first petitioner had examined himself and he has categorically admitted about the decree having become final and also the fact that he has caused obstructions and is thereby flouting the decree for permanent injunction. Mr.Dineshkumar, learned counsel also inviting my attention to the fact that the suit schedule has been subsequently amended, pending trial and it has been clearly demarcated by four boundaries and further, a Commissioner was also appointed before the Trial Court and taking into account, the report of the Advocate Commissioner as well alone, the Trial Court specifically granted a decree in terms of the rough sketch along with plaint, demarcating the subject pathway as A, B, C, D and E. Aggrieved by the findings of the Trial Court, the petitioners preferred a First Appeal in A.S. No.70 of 2004, before the learned Additional District Judge, Kallakurichi, and the same also came to be dismissed confirming the decree for permanent injunction in favour of the petitioners.



5. In fact, I find that even in the Execution proceedings, the Advocate Commissioner's report and plan have been marked as Ex.P12, which were also affirmed by the first petitioner herein. In such view of the matter, the decree has attained finality. The Executing Court cannot go beyond the decree and the scope is limited to ensure that the decree is executed as it stands. In fact, the Executing Court also gave an opportunity to the petitioners to remove the obstructions and provide ingress and egress to the respondent/plaintiff. It is only on failure that the Executing Court has proceeded to order arrest of the revision petitioner. The said order of arrest, is now under challenge in the present revision petition.

6. For the foregoing discussions, especially in the light of the candid admissions made by the first petitioner himself, even in the Execution Petition, with regard to the entitlement of the respondents and that the decree has become final and also to the factum of having cause obstructions to free ingress and egress over the suit pathway, I do not find any merit in the revision. However, Mr.A.K.Rajaraman, learned counsel for the petitioners would state that the learned counsel would advise the petitioners to comply with the decree for permanent injunction to avoid arrest and its embarrassing consequences.



7. In the light of the above, the order of arrest shall be kept in abeyance for period of two weeks from the date of receipt of the copy of the order. It shall be open to the petitioners, in the meantime, to remove the obstructions and provide free ingress and egress, in terms of the decree passed in the suit, failing which, the Execution Court shall proceed with the Execution Petition including giving effect to the order of arrest.

8. With the above directions, this Civil Revision Petition is **dismissed**. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

06-08-2026

RKP
Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
To
The Principal District Munisf at Kallakuruchi.



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P.B.BALAJI, J.,

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