

C.R.P(MD)No.2003 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2026

CORAM

THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.2003 of 2026

and

C.M.P(MD)No.9561 of 2026

Dhanapal

.. Petitioner

Vs.

1.Jegannathan
Ethiraj (died)
Krishnakumar (died)
Muthulakshmi (died)
Kaliammal (died)
Rengasamy (died)
Govindasamy (died)
Veeraiya (died)

2.Indirani
3.Rajaveni
4.Chandra
5.Srinivasan
6.Rajasekaran
7.Mathialagan
8.Amutha
9.Jeyalakshmi
10.Rajaram
11.Sekar
12.Vengadakrishnan
13.Manohar

.. Respondent



C.R.P(MD)No.2003 of 2026

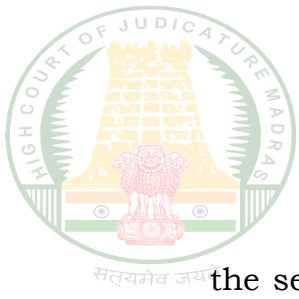
PRAYER: civil revision petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decree order made in E.A.No.5 of 2026 in E.P.No.110 of 2019 in O.S.No.283 of 1982 on the file of the II Additional Sub Judge, Trichirappalli, dated 01.06.2026.

For Petitioner : Mr.R.Sundar
For R1 : Mr.P.Sivachandran

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner under Section 47 of the Code of Civil Procedure.

2. One Ethiraj, filed a suit in O.S. No.283 of 1982 on the file of the Sub Court, Trichy, seeking partition against the petitioner and the first respondent. The petitioner was arrayed as the second defendant in the suit. Though the petitioner entered appearance, filed his written statement and contested the suit, he failed to appear at the time of arguments. Consequently, an ex parte preliminary decree was passed against him. Thereafter, the said Ethiraj filed I.A. No.626 of 1993 in O.S. No.283 of 1982 on the file of the Principal Sub Court, Trichy, seeking passing of a final decree. The petitioner remained ex parte in the final decree proceedings also and, consequently, a final decree was passed on 16.10.2012. On the strength of the final decree,



C.R.P(MD)No.2003 of 2026

WEB COPY

the second respondent filed E.P. No.6 of 2015. The petitioner entered appearance in the execution proceedings through his counsel on 04.03.2015 and filed his counter. Thereafter, the Executing Court passed an order of delivery on 03.01.2026 on merits. The said order has not been challenged by the petitioner. Subsequently, the petitioner filed the instant application under Section 47 of the Code of Civil Procedure mainly on the ground that the suit summons had not been served on him.

3.In the application filed under Section 47 of the Code of Civil Procedure, the petitioner also contended that he had not been served with notice in the final decree proceedings as well as in the execution proceedings. It was further stated that he is the only legal heir of Ramakrishnan, that the respondents are complete strangers to the family, and that they had played fraud and obtained the decree. The trial Court dismissed the petition filed under Section 47 of the Code of Civil Procedure. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

4.The learned counsel appearing for the petitioner would submit that no proper notice had been served on the petitioner either in the suit or in the execution proceedings. According to him, the



C.R.P(MD)No.2003 of 2026

WEB COPY

respondents played fraud and obtained the decree against the petitioner and, therefore, the decree is not executable.

5.It is seen from the impugned order that, in the suit, summons were duly served on the petitioner. He entered appearance through his counsel, Mr.Sadagopa Ramanujam, filed a written statement, and was also examined as a witness in the suit. Subsequently, he failed to appear at the stage of arguments and, therefore, an ex parte preliminary decree was passed on 07.04.1993. Thereafter, the petitioner filed an application to set aside the ex parte decree, which came to be dismissed. The appeal filed by him in C.M.A. No.106 of 1996 was also dismissed. The petitioner thereafter challenged the same by filing C.R.P. No.2726 of 1997, which was also dismissed on 09.10.1998. Therefore, the contention now raised by the petitioner that no proper summons had been served on him is nothing but a deliberate falsehood.

6.In the impugned order, the trial Court has also noted that the petitioner had filed another suit in O.S.No.233 of 2015 seeking permanent injunction by suppressing the fact that a preliminary decree for partition had already been passed against him. The said suit also came to be dismissed.



C.R.P(MD)No.2003 of 2026

WEB COPY

7. It is further seen that the final decree was passed in the partition suit on 16.10.2012 based on the report submitted by the Advocate Commissioner. The petitioner and his counsel were present at the time of the inspection conducted by the Advocate Commissioner, and the same has also been recorded in the impugned order. Thereafter, the second respondent filed E.P.No.6 of 2015 for execution of the final decree. The petitioner entered appearance through his counsel on 04.03.2015 and filed his counter. Thereafter, the Executing Court passed an order of delivery on 03.01.2026 on merits. The petitioner did not challenge the said order of delivery in the manner known to law. Instead, he has filed the instant application under Section 47 of the Code of Civil Procedure seeking a declaration that the decree is inexecutable on the ground that summons had not been properly served on him.

8. A perusal of the impugned order clearly indicates that the petitioner had appeared at various stages of the suit and had full knowledge of the pendency of the suit, the final decree proceedings, as well as the execution proceedings. Significantly, the petitioner had never raised any plea of fraud against the respondents in any of the earlier proceedings. In such circumstances, it is not open to him to



C.R.P(MD)No.2003 of 2026

WEB COPY

question the decree passed against him on the ground that the respondents played fraud and obtained the decree without proper service of summons.

9. The averments made in the affidavit filed in support of the application under Section 47 of the Code of Civil Procedure, alleging that the suit summons and notices in the final decree proceedings were not properly served on the petitioner, are nothing but a deliberate falsehood. The trial Court has rightly appreciated the materials on record and dismissed the application. I do not find any infirmity or illegality in the impugned order warranting interference.

10. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

27.07.2026

Index :Yes
Internet :Yes
NCC :Yes
skn
To

- 1.The II Additional Sub Court, Trichirappalli,
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.2003 of 2026

S.SOUNTHAR, J.

skn

C.R.P.(MD)No.2003 of 2026
and
C.M.P(MD)No.9561 of 2026

27.07.2026