

C.R.P(MD)No.1775 & 1776 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2026

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THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.1775 & 1776 of 2026

and

C.M.P(MD)No.8593 & 8598 of 2026

1.Manimaran

2.Muthu

.. Petitioners in both petitions

Vs.

1.Rajendran

2.Seethalakshmi

3.Rengammal

.. Respondents in both petitions

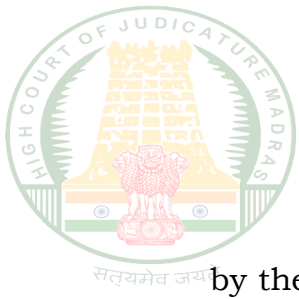
COMMON PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code to call for the records relating to the order dated 16.06.2025 passed in E.A. No. 8 & 9 of 2023 in E.P. No. 6 of 2023 by the learned District Munsif cum Judicial Magistrate Court, Karambakudi and set aside the same.

In both petitions:

For Petitioners : Mr.G.Mathavan

COMMON ORDER

These two Civil Revision Petitions are filed challenging the orders passed by the Executing Court allowing the applications filed



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by the respondents seeking appointment of a Surveyor and to grant of police protection to enable them to take delivery of possession of the suit property in accordance with the order passed in the execution petition.

2. The respondents herein filed a suit seeking declaration of title and recovery of possession in respect of the 'B' Schedule property and declaration of title and permanent injunction in respect of the 'C' Schedule property. The suit was decreed ex parte on 03.08.2021. Thereafter, the respondents filed E.P.No.18 of 2021 for execution of the decree. The petitioner entered appearance in the execution petition, filed his counter, and contested the same. After hearing the parties, the Executing Court ordered delivery of possession in September 2023 and directed its Ministerial Officer to effect delivery and submit a report on or before 12.09.2023.

3. However, when the Ministerial Officer visited the suit property for the purpose of effecting delivery, the petitioner obstructed the execution proceedings. Consequently, the respondents filed the present execution applications seeking appointment of a Surveyor to identify and measure the property and grant of police protection for effecting delivery. Though the petitioner had entered appearance in



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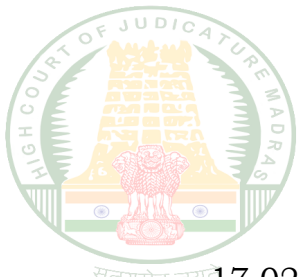
the execution petition, he remained ex parte in these applications.

Taking note of the earlier conduct of the petitioner and the necessity to effect delivery of the property covered by the decree, the Executing Court allowed both the applications. Aggrieved by the said orders, the present Civil Revision Petitions have been filed.

4. The learned counsel for the petitioners submitted that the petitioners had already filed an application to set aside the ex parte decree as early as 17.02.2022, but the same has not yet been numbered. Therefore, according to the learned counsel, the Executing Court ought not to have passed the impugned orders enabling the respondents to take delivery of possession.

5. It is seen from the typed set of papers that the petitioner entered appearance in the execution petition, filed his counter, and contested the execution proceedings. After hearing both sides, the Executing Court ordered delivery as early as September 2023. However, even till date, delivery could not be effected solely because of the obstruction caused by the petitioners.

6. Though it is the case of the petitioner that he had filed an application under Order IX Rule 13 of the Code of Civil Procedure on



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17.02.2022 to set aside the ex parte decree, the said application has not been numbered till date. The petitioner has not placed any acceptable or justifiable reason before this Court for his failure to get the application numbered for nearly four years.

7. The learned counsel for the petitioners, across the Bar, submitted that the petition filed to set aside the ex parte decree had been misplaced by the Court and, therefore, it could not be numbered. Even assuming that the papers had been misplaced, the petitioner ought to have approached the Principal District Judge seeking tracing of the records or, in the alternative, sought reconstruction of the misplaced papers. Admittedly, no such steps have been taken. Consequently, the application filed under Order IX Rule 13 of the Code of Civil Procedure remains unnumbered even as on date.

8. It is also evident from the records that delivery had already been ordered in the execution petition in September 2023. Though the petitioner participated in the execution proceedings, he did not challenge the order of delivery. On account of the obstruction caused by the petitioners while effecting delivery, the respondents were constrained to file the present applications seeking appointment of a Surveyor and police protection.



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9. In such circumstances, the Executing Court has rightly taken into consideration the facts and circumstances of the case and allowed the applications by appointing a Surveyor and granting police protection for effecting delivery of possession of the suit property in favour of the decree holders. I do not find any illegality, irregularity, or jurisdictional error in the impugned orders warranting interference under Article 227 of the Constitution of India.

10. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

08.07.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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To

1. The District Munsif cum Judicial Magistrate Court,
Karambakudi.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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