

C.R.P.No.881 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.881 of 2025

P.Sowmiya

... Petitioner

Vs

A.E.Sathiya Kumar

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, pleased to direct the Family Court, Thiruvallur to expeditiously pronounce the reserved orders in Execution Petition in E.P.No.6 of 2024 in H.M.O.P.No.89 of 2020.

For Petitioner : M/s.S.Santhi

ORDER

This Civil Revision Petition has been filed by the petitioner seeking for a direction to the Family Court, Thiruvallur, to expeditiously pronounce the



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reserved order in E.P.No.6 of 2024 in H.M.O.P.No.89 of 2020.

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2. It is the case of the petitioner that the respondent/husband had filed a petition against the petitioner/wife in H.M.O.P.No.89 of 2020 under Section 13(1)(i-a) of Hindu Marriage Act, 1955, before the Family Court, Thiruvallur to dissolve the marriage held between the petitioner and the respondent on 30.08.2018. The Family Court, by an order dated 23.03.2023, had allowed the petition and directed the respondent/husband to return 26 sovereigns of jewels to the petitioner/wife within three months from the date of that order and as on date, no appeal is pending against the order dated 23.03.2023. Since the respondent had not complied with the direction issued by the family court in HMOP No.89 of 2020, the petitioner had preferred an execution petition in E.P.No.6 of 2024 on 02.08.2024. In the execution petition, the respondent has entered appearance and after hearing arguments on both sides, the learned Judge has reserved the matter for orders on 09.12.2024, however, the order has not been pronounced till date. Thereby, the present Civil Revision Petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the



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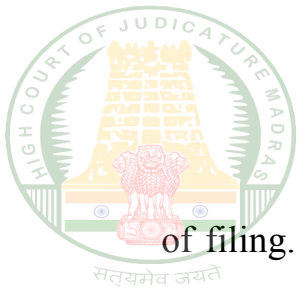
petitioner/wife, who is a house wife suffering without employment, has filed the

execution petition in E.P.No.6 of 2024 in HMOP No.89 of 2020 on 02.08.2024

and despite the order being reserved on 09.12.2024, the Family Court has not pronounced the orders till date. Hence, she seeks for a direction to the Family Court to pronounce the reserved order in the Execution Petition filed by the petitioner as expeditiously as possible.

4. Having heard the learned counsel appearing for the petitioner and perused the materials available on record, this Court is able to see that the execution petition filed by the petitioner on 02.08.2024 is pending for pronouncing orders from 09.12.2024.

5. The Hon'ble Apex Court, in *Periyammal (Dead) through Lrs & Ors vs. V.Rajamani & Anr Etc.* reported in 2025 INSC 329, referring to the earlier decisions made in *Rahul S. Shah Vs. Jinendra Kumar Gandhi and Others*, reported in (2021) 6 SCC 418 and *Bhoj Raj Garg vs. Goyal Education and Welfare Society & Ors*, reported in 2022 LiveLaw (SC) 976, has held that the executing Courts must dispose of the execution proceedings within six months from the date



of filing. The Hon'ble Apex Court has also held that the execution petitions shall be decided and disposed of within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High Court on its administrative side.

6. The paragraphs concerning the directions issued by the Hon'ble Apex Court in the above decision are extracted hereunder :-

“72. Before we close this matter, we firmly believe that we should say something as regards the long and inordinate delay at the end of the Executing Courts across the country in deciding execution petitions.

73. It is worthwhile to revisit the observations in Rahul S. Shah (supra) wherein this Court has provided guidelines and directions for conduct of execution proceedings. The relevant portion of the said judgment is reproduced below:

“42. All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:

42.1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third-party interest and further exercise the power under Order 11 Rule 14 asking parties to disclose and produce documents, upon oath, which are in



possession of the parties including declaration pertaining to third-party interest in such properties.

42.2. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the court, the court may appoint Commissioner to assess the accurate description and status of the property.

42.3. After examination of parties under Order 10 or production of documents under Order 11 or receipt of Commission report, the court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

42.4. Under Order 40 Rule 1 CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.

42.5. The court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

42.6. In a money suit, the court must invariably resort to Order 21 Rule 11, ensuring immediate execution of decree for payment of money on oral application.

42.7. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to



ensure satisfaction of any decree.

42.8. The court exercising jurisdiction under Section 47 or under Order 21 CPC, must not issue notice on an application of third party claiming rights in a mechanical manner. Further, the court should refrain from entertaining any such application(s) that has already been considered by the court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

42.9. The court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

42.10. The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A.

42.11. Under Section 60 CPC the term “... in name of the judgment-debtor or by another person in trust for him or on his behalf” should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

42.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.



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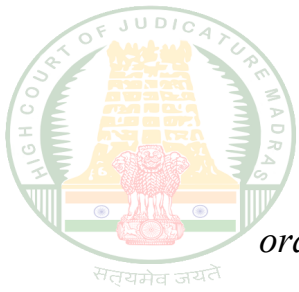
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42.13. *The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.*

42.14. *The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the executing courts.” (Emphasis supplied)*

74. *The mandatory direction contained in Para 42.12 of Rahul S. Shah (supra) requiring the execution proceedings to be completed within six months from the date of filing, has been reiterated by this Court in its order in Bhoj Raj Garg v. Goyal Education and Welfare Society & Ors., Special Leave Petition (C) Nos. 19654 of 2022.*

75. *In view of the aforesaid, we direct all the High Courts across the country to call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once the data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative*



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order or circular, directing their respective district judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High Court on its administrative side. Once the entire data along with the figures of pendency and disposal thereafter, is collected by all the High Courts, the same shall be forwarded to the Registry of this Court with individual reports."

7. In view of the above, this Civil Revision Petition stands allowed. Accordingly, the learned Judge, Family Court, Thiruvallur, is directed to dispose the Execution Proceedings in E.P.No.6 of 2024 in H.M.O.P.No.89 of 2020, in accordance with the directions issued by the Hon'ble Apex Court in the decisions referred above and pronounce orders within a period of **two weeks** from the date of receipt of a copy of this order. No costs.

07.03.2025

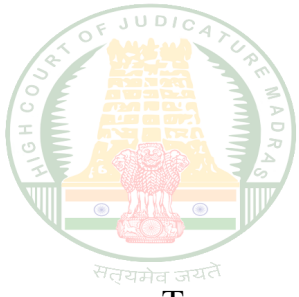
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To
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1. The Family Court, Thiruvallur.
2. The Section Officer, VR Section,
High Court of Madras.