



CRP NPD.No.1750 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD No.1750 of 2025 & CMP.No.10122 of 2025

Govindasamy

. . . Petitioner

Versus

Muniyammal [died]

Meenakshi Sundaram [died]

1. Kothandaraman

2. Ranganayaki

Adhilakshmi [died]

3. Prema

4. Kalaiselvi

5. V.Loganathan

6. L.Viswanathan

7. L.Kamalanathan

8. T.Selvi

. . . Respondents

PRAYER : Petition filed under Section 115 of Civil Procedure Code to set aside the Order dated 27.01.2025 passed in E.A.No.9 of 2024 in E.P.No.19 of 2015 in O.S.No.671 of 2008 on the file of the District Munsif Court at Sriperumbudur by allowing this Civil Revision Petition.



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For petitioner : Mr.K.Murali

For respondents : Mr.G.A.Thiyagarajan

ORDER

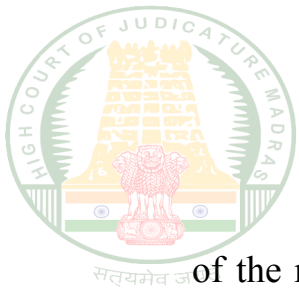
Challenge has been made to the Order of the Executing Court dismissing the application filed by the petitioner/judgment debtor to recall the warrant issued for delivery of possession, in the present revision petition.

2. The suit in O.S.No.671 of 2008 has been decreed in favour of the decree holder. When the Execution Petition has been levied, the Executing Court has issued a warrant for delivery of possession. At this stage, the judgment debtor has filed an application to recall the warrant on the ground that they had filed an application to condone the delay in filing an application to set aside the exparte decree in I.A.No.2 of 2022. However, the Execution Court rejected the application and the Execution Court has infact has recorded following facts as to how the matter has been protracted all these days :



S.No.	Date	Event
1	09.12.2015	I.A.No.931 of 2016 by the petitioner/2 nd JD to condone delay of 240 days to set aside the exparte decree was filed.
2	22.10.2019	I.A.No.931 of 2016 was dismissed for default for non issuance of Notice of Hearing to the other side. The application was at the state of Notice of Hearing for 4 years due to non-prosecution by the petitioner.
3	09.11.2022	I.A.No.02/2022 in I.A.No.931/2016 filed by the petitioner/2 nd JD to condone delay of 1084 days to restore he I.A.No.931/2016. This I.A.No.02/2022 was filed after passing of the Order dated 12.07.2022 in E.P.No.19 of 2015.
4	12.07.2022	Order in E.P.No.19/2015 in O.S.No.671 of 2008 was passed and delivery was ordered. The petitioner/2 nd JD filed a counter in the above E.P.
5	09.02.2024	E.A.No.05/2022 in E.P.No.19 of 2015 to recall warrant of delivery was allowed.
6	0902.2024	E.A.No.07/2023 in E.P.No.19 of 2015 to implead the respondents 8 to 11 as the legal heirs of the deceased 5 th respondent/5 th decree holder/ 5 th plaintiff was allowed
7	30.01.2024	I.A.No.03/2024 in I.A.No.02/2022 in I.A.No.931 of 2016 in O.S.No.671 of 2008 filed by the petitioner/2 nd JD to condone delay of 1409 days in filing a petition to implead the legal heirs of the deceased 5 th respondent/5 th plaintiff. The application in I..No.03 of 2024 is still pending.

3. Now, the contention of the learned counsel appearing for the petitioner is that they had filed an application to condone the delay in filing an application to set aside the exparte decree and the said application has been allowed with a cost of Rs.2000/- which has been paid. However, the certified copy of the said Order has not been produced before this Court. Only a copy



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of the receipt for payment of Rs.2000/- has been produced before this Court.

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A perusal of the said receipt indicate that what was allowed was only the application filed by the petitioner in I.A.No.3 of 2024 in I.A.No.02 of 2022 in In I.A.No.931 of 2016 in O.S.No.671 of 2008 to implead the legal representatives of the second judgment debtor. These facts have been clearly captured in the Order of the Executing Court. Therefore, merely on the basis of some Orders passed in the impleading application, the Orders of the Executing Court cannot be set aside as matter of right. Hence, I do not find any merits in this Civil Revision Petition. It is well open to the revision petitioner to canvas the same before the Executing Court.

4. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The District Munsif Court,
Sriperumbudur.



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N. SATHISH KUMAR, J.

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