



IN THE HIGH Court OF JUDICATURE AT MADRAS

Reserved on:24.09.2025

Pronounced on:26.09.2025

WEB COPY

CORAM

THE Hon'ble MR.JUSTICE P.B.BALAJI**CRP. No.2113 of 2024
and CMP. No.11250 of 2024**A.Kuppammal (Died)
Mr.A.Selvaraj

Petitioner

Vs

Mrs.Muniammal

Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned docket order dated 13.09.2023 in E.P. No.132 of 2020 in O.S. No.389 of 2007 on the file of the Principal District Judge at Chengalpattu and consequently, dismiss the E.P. No.132 of 2020.

For Petitioner : Mr.M.Thangadurai

For Respondent : Mr.S.Anburaja

ORDER

The present revision petition has been filed by the second judgment debtor, challenging the order passed by the Executing Court in E..No. 132 of 2020, dated 13.09.2023.



2. I have heard Mr. M.Thangadurai, learned counsel for the revision petitioner and Mr.S.Anburaja, learned counsel for the respondent. I have gone through the records, including the order impugned in the present revision petition.

3. Mr.Thangadurai, learned counsel for the revision petitioner, would submit that the Executing Court ought not to have recorded delivery and terminated the Execution Proceedings, when possession admittedly continued to be with the revision petitioner. The learned counsel would further state that the Executing Court has not considered the valid objections putforth by the revision petitioner that the decree holder was not entitled to any share in Item 3 of the suit property and contending that the revision petitioner is carrying on agricultural operations in the said Item 3 of the suit property by raising paddy crops, the Executing Court, by terminating the Execution Proceedings has foreclosed the valuable rights of the revision petitioner. He would therefore pray for the revision being allowed.

4. Per contra, Mr.S.Anburaja, learned counsel appearing for the respondent would submit that the suit was filed by the respondent for partition and separate possession and the suit came to be decreed on



23.01.2008 granting a preliminary decree in favour of the respondent/plaintiff giving liberty to the parties interested to seek appointment of an Advocate Commissioner for division of the suit properties by metes and bounds and put the parties in separate possession. The learned counsel would further state that in pursuance of the decree passed in the suit, a final decree also came to be passed on 14.11.2017 and in order to give effect to the final decree, E.P.No.132 of 2020 was filed by the respondent/plaintiff.

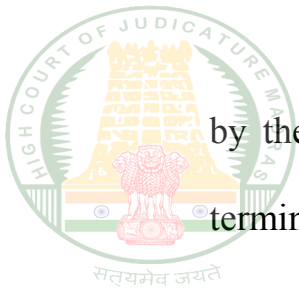
5. The learned counsel pointing out to the adjudications in the EP records would contend that after giving more than sufficient opportunities to the petitioner, the Execution Petition was ordered by passing an order of delivery and consequent to the same, the respondent has also taken delivery on 11.09.2023 and the Executing Court has recorded delivery and terminated the EP. He would therefore contend that nothing survives for consideration in the present revision petition.

6. I have carefully considered the submissions advanced by the learned counsel on either side and I have also gone through the records.



7. The suit for partition in O.S.No.389 of 2007 resulted in a preliminary decree being passed on 23.01.2008 and a final decree was also passed on 14.11.2017. An Advocate Commissioner has been appointed, who has suggested division of the suit properties into two equal halves, one half being allotted to the petitioner/plaintiff. The Execution Petition was laid only to take possession of the properties allotted to the plaintiff. Even according to the respondent, pursuant to orders in the Execution Petition, the respondent has taken separate possession of the properties allotted to him and therefore, nothing was left to be considered by the Executing Court and rightly, the EP has been terminated.

8. I find force in the submissions made by the learned counsel for the respondent. The revision petitioner has admittedly not challenged the final decree allotting the eastern half in Items 1 to 5 to the plaintiff. The other half share is the entitlement of the petitioner/defendant. If the petitioner was aggrieved by the allotment of any share to the respondent/plaintiff in Item 3, as now contended or that the entire Item 3 has been in possession and occupation of the petitioner, then the petitioner ought to have challenged the final decree proceedings. Without doing so, the petitioner has merely chosen to challenge the order passed



by the Executing Court, recording delivery of possession and thereby, terminating the EP.

WEB COPY

9. I do not find any merit in the revision. If at all the petitioner is entitled to challenge the final decree proceedings, subject to the same being permissible and in accordance with law, it is needless to state that the petitioner can avail of such available remedies. Insofar as the present revision petition, I do not find any merit warranting interference in the impugned docket order dated 13.09.2023 in E.P. No.132 of 2020 in O.S. No.389 of 2007 on the file of the Principal District Judge at Chengalpattu. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

26.09.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The Principal District Judge at Chengalpattu



WEB COPY

CRP. No.2113 of 2024



P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. No.2113 of 2024
and CMP. No.11250 of 2024

26.09.2025