



CRP.No.1850 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.1850 of 2023 &

CMP.No.11881 of 2023

R.Selvarajan

... Petitioner

Versus

Nachimuthu Gounder [died]

Sengoda Gounder [died]

Muthu @ Jaganatha Gounder [died]

1. Sundaramurthi @ Manikkasundaram

2. SMohanasundaram

3. P.Balamani

4. J.Thilagavathi

5. N.J.Nishanthkumar

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and final Order dated 14.11.2022 in E.A.No.1 of 2020 in E.P.No.52 of 2019 in O..No.257 of 1982 on the file of the I Additional Sub Court, Erode and allow the Civil Revision Petition.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondents : Mr.M.Guruprasad – R1, 4, 5 & 6

ORDER



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Challenge has been made to the Order of the Execution Court dismissing the application filed under VI Rule 17 and under section 151 of the Code of Civil Procedure to amend the Execution Petition to restrict his right only in respect of 47 cents said to have been allotted to the petitioner as per the Will of his father dated 28.07.1983, in the present revision petition.

2. Originally, the Execution Petition has been filed to enforce the decree of permanent injunction passed in favour of the petitioner's father, one Ramasamy Naidu in O.S.No.257 of 1982. The said suit has been filed as against the defendants 1 to 4. The said suit has been decreed in respect of 94 cents in two survey numbers. Thereafter, an Execution Petition has been levied as if the respondents are interfering with possession of the revision petitioner. The Execution Petition has been levied in the year 2020. In the meanwhile, it appears that the said Ramasamy Naidu's brother Subramani has sold his 47 cents on the southern side of the larger extent to the fourth respondent in the Execution Petition. Therefore,



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according to the revision petitioner, he is in possession of the remaining 47 cents. Therefore, he want to amend the Execution Petition to restrict his claim.

3. The learned counsel appearing for the petitioner would submit that he had filed a suit for partition against his brother in O.S.No.652 of 1995. However, the said suit has been decreed originally, but, however, in the second appeal in S.A.No.1459 of 2000 by a judgment dated 19.02.2019, this Court had dismissed the suit. Hence, according to him, he is not in possession of the property. Now taking advantage of the permanent injunction decree passed in favour of his father in respect of larger extent, now the execution petition has been levied as if the respondents are trying to intrude into property and the Execution Court has been filed.

4. Whereas, it is the contention of the learned counsel appearing for the fourth respondent that the fourth respondent had purchased 47 cents on the Southern side. The trial Court had in fact directed the revision petitioner to produce the documents to show the nature of the property. However, no such documents have been produced. Further, the revision



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petitioner has sought to execute the decree passed in favour of his father and the decree has been passed in the year 1983 and much water had flowed later.

5. It is further contention of the revision petitioner that he had filed a suit for partition in O.S.No.652 of 1995 for division of the suit properties. However, the suit has been dismissed in the second appeal on the ground that the properties have already been divided between them as per the Will of their father. Now the property allotted to the brother of the revision petitioner has already been purchased by the fourth respondent on the southern side as per the registered sale deed dated 11.07.1995. Therefore, for the remaining extent, he is entitled to protect his possession. Therefore, he sought to execute the decree passed in favour of his father.

6. At the outset, this Court is of the view that considering the long gap between the permanent injunction decree and the subsequent transactions between the parties, and half of the property has already been purchased by the fourth respondent, it appears that the revision petitioner is still claiming to be in possession of the remaining property. After efflux of



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time, it is for him to prove his possession and nothing prevented him from filing a suit for permanent injunction against the respondents. In such view of the matter, the Order of the Executing Court rejecting the application filed for amendment does not require any interference.

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

23.07.2025

Index : Yes/No
Internet : Yes/No

vrc

To,

The I Additional Sub Court,
Erode.



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N.SATHISH KUMAR, J.

VRC

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