



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 13.11.2025

Order pronounced on : 05.12.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.Nos.2103 & 3702 of 2023

& CMP.No.23167 of 2023

S.Rajendran

... Petitioner in
CRP.No.2103 of 2023

V.Ramesh

... Petitioner in
CRP.No.3702 of 2023

Vs.

V.Ramesh

... Respondent in
CRP.No.2103 of 2023

S.Rajendran

... Respondent in
CRP.No.3702 of 2023

Prayer in CRP.No.2103 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair order and decreetal order dated 06.08.2022 in I.A.No.1 of 2022 in O.S.No.6058 of 2016 on the file of the V Assistant Judge (FAC), City Civil Court, Chennai.



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Prayer in CRP.No.3702 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decreetal order made in E.P.No.79 of 2021 in O.S.No.6058 of 2016 on the file of the IX City Civil Court, Chennai dated 07.06.2023.

(In CRP.No.2103 of 2023)

For Petitioner : Mr.R.Ananth
for Mr.T.N.Rajagopalan

For Respondent : Ms.K.Sri Rudhra
for Mr.R.Ravindran

(In CRP.No.3702 of 2023)

For Petitioner : Ms.K.Sri Rudhra
for Mr.R.Ravindran

For Respondent : Mr.R.Ananth
for Mr.T.N.Rajagopalan

COMMON ORDER

The decree-holder/plaintiff is the revision petitioner in CRP.No.2103 of 2023, aggrieved by the dismissal of his application seeking return of the original plaint document, marked as Ex.A5.



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2.The judgment-debtor/defendant is the revision petitioner in CRP.No.3702 of 2023, challenging the decision of the Executing Court, allowing E.P.No.79 of 2021.

3.For the sake of convenience, the parties are referred to as per their litigating status before the trial Court.

4.I have heard Mr.R.Ananth, for Mr.T.N.Rajagopalan, learned counsel for the plaintiff and Mrs.K.Sri Rudhra for Mr.R.Ravindran, learned counsel for the defendant.

5.Mr.R.Ananth, learned counsel appearing for the plaintiff would submit that the plaintiff had filed a suit for recovery of money from the defendant and had marked the original sale deed, which stood in the name of the defendant's brother's wife, as Ex.A5, to substantiate the case of the plaintiff that the original document was given as a security for the borrowing. He would further submit that under Order XIII Rule 9 of CPC, the plaintiff was entitled to seek return of the original document and the trial



Court has erroneously proceeded to dismiss the application, citing the suit having been disposed of already. In support of his contention, he would also rely on the decision of this Court in *S.Senthamarai Vs. J.Vijayakumaran and another*, in *CRP.(NPD).Nos.2746 & 2747 of 2013* dated 30.08.2013. He would pray for CRP.No.2103 of 2023 being allowed.

6.Per contra, Mrs.K.Sri Rudhra, learned counsel appearing for the defendant would submit that the trial Court has not committed any error in dismissing the application and when admittedly the original sale deed, which was in respect of a property belonging to the defendant's brother's wife and the plaintiff already having succeeded in obtaining a decree and also put it to execution, he cannot seek return of the document, which rightfully belonged to the defendant's brother's wife. She would therefore pray for dismissal of the revision.

7.In CRP.No.2103 of 2023, it is the contention of the learned counsel for the defendant that the defendant is an auto driver and his properties are exempt from attachment under Section 60 of CPC. She would further submit that an auto driver would fall within the definition of labourer, occurring in



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Section 60(1)(c) and therefore, the trial Court ought not to have allowed the execution petition. In this regard, she relied on the decision of this Court in *S.Ramakrishnan Vs. P.Gurumoorthy* in *CRP.No.2231 of 2025* dated 07.07.2025.

8.In reply, the learned counsel appearing for the plaintiff/decreed-holder would submit that the burden was on the defendant to establish that he is entitled to exemption under Section 60 and absolutely no acceptable evidence has been adduced, excepting Ex.R6 which also would not enure to his benefit, as it is a self serving document. He would therefore pray for dismissal of the revision.

9.I have carefully considered the submissions advanced by the learned counsel on either side.

10.Insofar as *CRP.No.2103 of 2023*, there is no dispute that the original of the sale deed in favour of the defendant's brother's wife has been marked by the plaintiff, during his chief examination, as Ex.A5.



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11. Order XIII Rule 9 of CPC reads thus:

“9. Return of admitted documents.—(1) Any person, whether a party to the suit or not, desirous of receiving back any documents produced by him in the suit and placed on the record shall, unless the document is impounded under rule 8, be entitled to receive back the same,—

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of:

[Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor—

(a) delivers to the proper officer for being substituted for the original,—

(i) in the case of a party to the suit, a certified copy, and

(ii) in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of rule 17 of Order VII, and

(b) undertakes to produce the original, if required to do so:] Provided also, that no document shall be returned with, by force of the decree, has become wholly void or useless.

(2) On the return of a document admitted in evidence, a receipt shall be given by the person receiving it.”

It is clear from the language of Rule 9 that a person, who produces the document, is entitled to receive it back, subject to compliance with the mandate of the proviso.



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12. Admittedly, the suit has been disposed of and no appeal has been preferred therefrom. Therefore, Sub rule 1 of Rule 9 would entitle the plaintiff to seek return of the document. Admittedly, the document is not in the name of the defendant. There is no objection or claim made by the defendant's brother's wife, seeking return of the said document, by taking out any application, either during pendency of the suit or even thereafter. Therefore, in the light of Rule 9 on Order XIII of CPC, the plaintiff is certainly entitled to return of the document. If at all, the person, who is really prejudiced, namely the defendant's brother's wife seeks custody of the said original title deed, it is for her to independently workout her rights against the plaintiff. The plaintiff/judgment-debtor has no right to object to the request for return of the document by the plaintiff.

13. This Court, in *Senthamarai's case*, cited supra, has held that a document marked by the plaintiff has to be necessarily returned only to the plaintiff and not to any other person, when the plaintiff seeks to receive back the said document.



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14.The trial Court having found that the document was marked on the side of the plaintiff, however, erroneously proceeded to reject the request for return of the document, only on the ground that the suit has been decreed and hence the petitioner does not have any right to retain the document. Rule 9 itself takes care of the factum of the disposal of the suit. In such view of the matter, citing the factum of the suit having been decreed, to dismiss the application for returning the original document to the plaintiff is clearly perverse and improper, liable to be interfered in revision.

15.Insofar as the challenge made by the defendant to the order passed in the execution petition, the only contention that is taken by the defendant is the defence available under Section 60 of CPC. No doubt, Section 60 of the CPC exempts houses and other buildings “with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment” belonging to an agriculturist or a labourer or a domestic servant and occupy by him from attachment and sale in execution of the decree.

16.It is the contention of the learned counsel for the defendant that



the petitioner is admittedly an auto driver and therefore he would fall under the definition 'labourer' and consequently be entitled to exemption from attachment and sale of his property. It is the further contention of the learned counsel for the defendant that the property, which is sought to be attached is not the absolute property of the defendant, but it is the property where the defendant has only an undivided interest and therefore, the executing Court ought not to have allowed the execution petition. In this regard, the learned counsel for the defendant has relied on the decision of this Court in *S.Ramakrishnan's case*, cited supra, where this Court held that no doubt, an exemption is available to an agriculturist, labourer or domestic servant to escape from execution by attachment and sale of the properties belonging to these categories of persons, but however, this Court further held that such person, who claims exemption, has to necessarily show that he is dependent for the livelihood, sustenance in life from the said labour or service, as the case may be and that he is unable to maintain himself otherwise and only upon such initial burden being established, the judgment-debtor would be entitled to the benefit of Section 60(1)(c) of CPC and thereafter, it would be the burden of the decree-holder to show, by convincing evidence, that the judgment-debtor is not an agriculturist,



19. It is the contention of the decree-holder that an auto driver would not fall within the exempted categories of agriculturist, labourer or domestic servant and consequently, exemption available under Section 60(1)(c) of CPC would not enure to the benefit of the judgment-debtor.



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20. On the side of the decree-holder, he has examined himself as P.W. 1 and marked Ex.P1. Ex.P1 establishes the factum of the judgment-debtor being the owner of the auto. From the exhibits filed on behalf of the respondent, it is seen that none of the documents rebutted Ex.P1, establishing ownership of the auto with the judgment-debtor. Ex.R6 relied on is an income certificate issued by the revenue authority. It is seen that the said document was obtained only for the purposes of claiming contribution for the Government for celebrating the judgment-debtor's daughter's marriage. The said exhibit does not in any manner further the case of the judgment-debtor that he falls within the definition of agriculturist, labourer or domestic servant.

21. On the side of the judgment-debtor, no satisfactory evidence was adduced to establish the initial burden on him that he is dependent on the said property for his living and that but for the said property, he would not be in a position to maintain himself.

22. Further, as rightly contended by the learned counsel for the plaintiff, I am afraid how an auto driver, who owns an auto, can be brought



within the definition of an agriculturist, labour or domestic servant. If at all the claim can be considered under the head “labourer”, however, the judgment-debtor does not work for anybody and depends on such income for his basic sustenance. Admittedly, he owns an auto, which he is running and in such circumstances, he cannot qualify himself to be even a “labourer” to claim exemption under Section 60(1)(c) of CPC. In view of the above, I do not find any infirmity in the findings of the executing Court, warranting interference in revision.

23.In fine, CRP.No.2103 of 2023 is allowed and the order dated 06.08.2022 in I.A.No.1 of 2022 in O.S.No.6058 of 2016 on the file of the V Assistant Judge (FAC), City Civil Court, Chennai, is set aside. CRP.No. 3702 of 2023 is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

05 .12.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To

- 1.The V Assistant Judge (FAC), City Civil Court, Chennai.
- 2.The IX City Civil Court, Chennai.

P.B. BALAJI,J.

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Pre-delivery order made in
CRP.Nos.2103 & 3702 of 2023
& CMP.No.23167 of 2023



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05.12.2025