



C.R.P.Nos.2194 & 2195 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.Nos.2194 & 2195 of 2025

and

C.M.P.No.12774 of 2025

1.Sivasankaran
2.Thavamani @ Mani

... Petitioners
in both petitions

Vs.

Anjanakshi @ Anjalakshmi

... Respondent
in both petitions

Prayer in C.R.P.No.2194 of 2025 : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order, dated 04.04.2025 made in E.A.No.113 of 2021 in E.P.No.34 of 2020 in O.S.No.53 of 2014 on the file of the Subordinate Court, Arakkonam.

Prayer in C.R.P.No.2195 of 2025 : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order, dated 04.04.2025 made in E.A.No.4 of 2022 in E.P.No.34 of 2020 in O.S.No.53 of 2014 on the file of the Subordinate Court, Arakkonam.



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C.R.P.Nos.2194 & 2195 of 2025

For Petitioners : Mr.Jeremiah Gregory John
in both petitions

For Respondent : Mr.Sunny Sheen
for Mrs.V.Srimathi
in both petitions

COMMON ORDER

C.R.P.No.2194 of 2025 has been filed challenging the order of the Executing Court dismissing the application to set aside the *ex parte* order passed against the petitioners/judgment debtors on 29.11.2021. C.R.P.No.2195 of 2025 has been filed challenging the order of the Execution Court, dismissing the application filed under Section 47 CPC.

2.The suit in O.S.No.53 of 2014 was originally filed by the respondent for declaration of title and for recovery of possession, against the petitioners. The said suit was decreed by the trial Court. The said decree in O.S.No.53 of 2014 has attained finality upto Second Appeal before this Court in S.A.No.125 of 2020. Thereafter, the decree was put in execution in E.P.No.34 of 2020. Since the petitioners/judgment debtors did not file counter affidavit, an *ex parte* order was passed on 29.11.2021 and



C.R.P.Nos.2194 & 2195 of 2025

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the Execution Court ordered delivery on the same day. Thereafter, the petitioners/judgment debtors have taken out the present applications, one to set aside the *ex parte* order passed against the petitioners and the other under Section 47 CPC. The application under Section 47 CPC is filed only on the ground that the decree is inexecutable, since the petitioners had obtained a decree of injunction in O.S.No.221 of 1999 as against the respondent/decreed holder.

3.The Execution Court found that the decree obtained by the revision petitioners in O.S.No.221 of 1999 is only with regard to injunction not to evict them except by due process of law; however, since due process has now commenced, the injunction decree in favour of the petitioners will not be a bar to execute the decree in the present suit. Accordingly, the Execution Court dismissed the application filed under Section 47 CPC. Consequent to the dismissal of the application under Section 47 CPC, the Execution Court also dismissed the application to set aside *ex parte* order. Challenging the orders of dismissal, the present revision petitions have been filed by the judgment debtors.



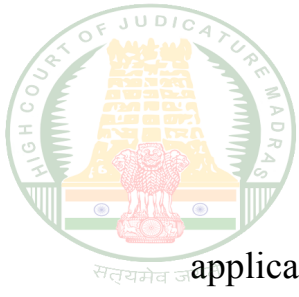
C.R.P.Nos.2194 & 2195 of 2025

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4.I have perused the entire materials available on record.

5.As rightly observed by the Execution Court, merely a decree for permanent injunction obtained by a person not to evict him except by due process of law, will not give him absolute right to resist the decree which is passed against him for recovery of possession. Hence, the petitioners cannot stall the execution proceedings on the strength of the decree of injunction obtained in their favour, when eviction is ordered by Court by following due process of law. Moreover, the petitioners have not filed their counter and they have been set *ex parte* in the execution proceedings. When the only contention of the petitioners is rejected and their application under Section 47 CPC is dismissed, then there is no necessity for hearing them once again. Therefore, this Court finds no reason to interfere with the orders of the Execution Court dismissing both the applications filed by the petitioners.

6.Accordingly, these Civil Revision Petitions are dismissed as devoid of merits, confirming the orders of the Execution Court in both the



C.R.P.Nos.2194 & 2195 of 2025

applications filed by the petitioners. No costs. Consequently, connected

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miscellaneous petition is closed.

30.06.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Arakkonam.

2.The Section Officer,
VR Section,
High Court, Madras.



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C.R.P.Nos.2194 & 2195 of 2025

N. SATHISH KUMAR, J.

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C.R.P.Nos.2194 & 2195 of 2025

30.06.2025