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CRP.No.2423 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.NO.2423 OF 2025 &
CMP.No.13919 of 2025

Gowri

... Petitioner

/vs/

Jayakodi (Deceased)

1. Rajini
2. J.Ejillane
3. J. Ilanchezhian
4. Kayalvizhi
5. Shanmugam

... Respondents

Prayer : Civil Revision Petition filed under section 115 of CPC to set aside the fair and decreetal order dated 11.06.2025 passed in E.A.No.20 of 2009 in E.P.No.281 of 2005 in OS.No.227 of 1999 on the file of the II Addl. Sub Court, Puducherry by allowing the Revision.

For Petitioner	...	Mr. T.S.Baskaran
For Respondents		R1 to R4 – no appearance R5-deceased

ORDER

This Civil Revision Petition is filed to set aside the fair and



decreetal order dated 11.06.2025 passed in E.A.No.20 of 2009 in E.P.No.281 of 2005 in OS.No.227 of 1999 on the file of the II Addl. Sub Court, Puducherry by allowing the Revision.

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2. The facts leading to filing of this Civil Revision Petition is as follows;

(i) Pursuant to a court decree in OS.No.227 of 1999, the 1st respondent/auction purchaser purchased a property measuring an extent of 27.72 sq. mts of land with RCC Bulding situate at Old No.14, New No.27, Senbagaraman Street, Lawspet, Puducherry which was already mortgaged in favour of one Shanmugam, through court auction and a sale certificate in respect of the said property was also issued in favour of 1st respondent/Jayakodi for an extent of 27.74 sq.ft., and the sale certificate was unchallenged and it had attained its finality. Pending suit, the judgment debtor made further construction of first floor in the mortgaged portion of property.

(ii) The 1st respondent/auction purchaser filed E.P.No.281 of 2005 before the II Addl. Sub Judge, Puducherry, wherein, delivery of property has been ordered including first floor. Since some third



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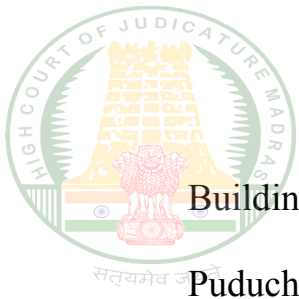
parties were inducted as tenants by the judgment debtor in the said property, delivery of possession could not be effected on 20.03.2008, however, the auction purchaser took possession of the property and put up a lock in the door, but on 21.03.2008, the judgment debtor along with her husband broke open the lock of the first floor illegally.

(iii) Thereafter, the auction purchaser filed E.A.No.20 of 2009 seeing re-delivery of the 1st floor portion of the property. The E.A.No.20 of 2009 was allowed and delivery of possession of petition mentioned property was ordered.

(iv) Aggrieved against the order of delivery of possession, the petitioner/judgment debtor has filed the present Civil Revision Petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. Challenge has been made in this Revision as against the order of delivery of possession passed by the Executive Court in respect of the property measuring an extent of 27.72 sq. meters of land with RCC



Building situate at Old No.14, New No.27, Senbagaraman Street, Lawspet, Puducherry. Infact, the abovesaid property was originally mortgaged by the Revision petitioner in favour of the 5th respondent herein. As the amount has not been paid, a suit has been laid by the 5th respondent for recovery of money and the said suit was decreed and final decree was passed to sell the mortgaged property and through a court auction, the respondent purchased the property and a sale certificate was also issued in her name, pursuant to which, execution petition has been laid.

5. It is seen that in the earlier round of litigation in CRP No.662 of 2025 which was filed by the petitioner/judgment debtor challenging the order passed in EA.No.20 of 2009 which was originally filed for delivery of first floor on the ground that she has made improvements in the property mortgaged, this Court, while disposing the abovesaid CRP, has passed the following order.

'49. Therefore, to meet the ends of justice, the case is remanded back to the Learned Additional Sub Judge, Puducherry to re-do the exercise.

50. In case, it is feasible to deliver the mortgaged property to the 2nd respondent, it should be delivered to the 2nd respondent in accordance with law immediately. In case, the petitioner wants to perfect the title over the



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property, the petitioner is given one last opportunity to negotiate with the 2nd respondent to settle the dispute. This opportunity may be however availed by the petitioner before a fresh report is submitted by the Advocate Commissioner with the help of Surveyor and Chartered Engineer and before further orders are passed by the Execution Court based on such report.

51. If the mortgaged portion and /or improvement made thereon cannot be delivered to the 2nd respondent, the 2nd respondent has to be suitably compensated by the petitioner.

52. The 2nd respondent will have to be paid appropriate compensation on the proportionate market value of the land 27.72 sq mts together with the value of the pre-existing building and the improvements made on the first floor and the convenience that was available at the time of the mortgage.

53. The market value of the property should be arrived together with the improvements without any depreciation. Apart from the above, the petitioner should also compensate the 2nd respondent for possession and having enjoyed the mortgaged property from the date of sale certificate.

54. If the petitioner does not pay the amount that may be determined to be paid to the 2nd respondent, the 2nd respondent is at liberty to move appropriate application before the said Court to secure his interest.



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55. The above exercise shall be completed within a period of six months from, the date of receipt of a copy of this order. The above Civil Revision Petition stands disposed by way of remand. No costs. Consequently, connected Miscellaneous Petition is closed.

6. It is seen that as orders have been passed by this Court in CRP.No.662 of 2015 issuing certain directions in the presence of both parties, let the auction purchaser/respondents herein file an application before the Executive Court to comply with the directions of this court and on filing such application, if it is found by the Executive Court that the building is feasible for delivery, the same shall be decided on its own merits after hearing both parties. The application filed by the auction purchaser/respondents herein, in the light of the directions contained in the above CRP. No.662 of 2015 shall be disposed of within a period of one month from the date of receipt of a copy of this order. Till such time, the delivery ordered by the trial court in E.A.No.20 of 2009 shall be kept in abeyance.

7. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.



msr

Index:yes/no

Internet:yes/no

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To

The II Addl. Sub Court, Puducherry.

N. SATHISH KUMAR, J.

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