

CRP.No.2706 of 2023

N.SATHISH KUMAR,J.

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The case is posted today under the caption "for being mentioned" at the instance of the learned counsel for the petitioner .

2. The learned counsel for the petitioner submitted that in the second paragraph of the order dated 03.07.2025, it has been wrongly mentioned as **“District Munsif Court, Palakkad”** instead of **“ District Munsif cum Judicial Magistrate Court, Pallipet”**. Similarly, in the 'To' address. the name of the Court has been wrongly mentioned as **“II Addl.Subordinate Judge, Coimbatore”** instead of **“The District Munsif cum Judicial Magistrate Court, Pallipet”** and seeks for necessary correction.

3. Considering the submission made by the learned counsel appearing for the petitioner, Registry is directed to carry out the necessary corrections in the order and issue a fresh order copy after carrying out the above said corrections.

06.08.2025

mrp



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N.SATHISH KUMAR,J.

mrp

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CRP No.2706 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

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THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.NO.2706 OF 2023

&

CMP.No.25990 of 2024

1. M. Purushotham

... Petitioner

/vs/

T. Nageswara Rao

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 05.06.2023 passed in E.P.No.03 of 2023 in O.S.No.46 of 2011 on the file of the learned District Munsif cum Judicial Magistrate Court, Pallipet, Tiruvallur District.

For Petitioner

... Mr.K.Muthuramalingam

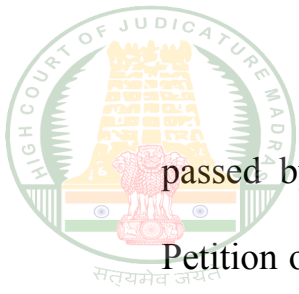
For Respondent

.... No appearance

ORDER

This Civil Revision Petition is filed against the order dated 05.06.2023 passed in E.P.No.03 of 2023 in O.S.No.46 of 2011 on the file of the learned District Munsif cum Judicial Magistrate Court, Pallipet, Tiruvallur District.

2. Challenge has been made in this Civil Revision Petition against the order



passed by the learned District Munsif court, Palakkad, rejecting the Eviction Petition on the ground that the Eviction Petition has been filed with a delay of 11 years and 11 months.

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

(i) The petitioner / plaintiff filed a suit for specific performance against the respondent/defendant in OS.No.46 of 2011 before the District Munsif cum Judicial Magistrate, Pallipet based on the Sale Agreement 25.04.2009 entered between them.

(ii) The said suit was decreed as prayed for on 28.03.2011 and based on the memo filed by the defendant, seven days time from the date of decree was granted for execution of the sale deed.

(iii) Thereafter execution petition in E.P.No.03 of 2023 has been filed to enforce the decree and judgment passed in OS.No.46 of 2011 seeking to direct the defendant to execute the sale deed after receiving the balance sale consideration

(iv) Before the EP Court the matter was posted for clarification on 05.06.2023. The respondent/judgment debtor was served with notice and he was set exparte.

(v) The court below, pointing out the reasons that the learned counsel for execution petitioner remained point bank when the matter was posted for



clarification and the EP was filed belatedly after a delay of 11 years and 11 months, dismissed the Execution Petition.

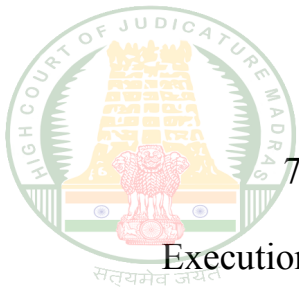
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(vi) Aggrieved against the same, the present Civil Revision Petition is filed by the petitioner/decreed holder.

4. Learned counsel for the petitioner submitted that the suit laid by the petitioner for specific performance was decreed as prayed for on 28.03.2011 and the execution petition has been filed within 12 years from the date of decree, however the Court dismissed the Execution Petition mainly on the ground that the counsel for the petitioner is point blank with the present petition and he could not properly represent the facts and the EP was filed belatedly. He further submitted that the court below has failed to consider the limitation period of 12 years prescribed under Article 136 of the Limitation Act.

5. Heard the learned counsel for the petitioner. Though the respondent, on service of notice, has entered appearance before the court, none appears for the respondent today when the matter is called.

6. I have perused the entire materials available on record and the order impugned herein.



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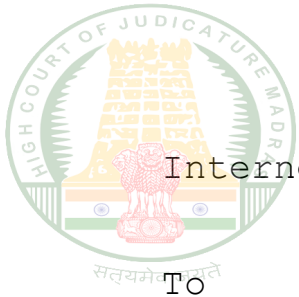
7. The court below, in fact, abdicated its responsibility in deciding the Execution Petition, rather found a short cut method in rejecting the Execution Petition without allowing the same for proper decision. Admittedly, the EP has been filed within a period of 12 years from the date of decree and there is no bar under law to entertain the Execution Petition. Any decree passed by the civil court other than Mandatory Injunction, the same should be enforced within 12 years as per Article 136 of the Limitation Act. It is seen that execution petition was filed within a period of limitation as provided under law. When such being a position, merely because for the reason that execution petition has been filed belatedly, same is not a ground to reject such execution petition. In such view of the matter, this Court finds the order passed by the Court below as perverse and erroneous, hence, the same stands set aside. The Execution Court/District Munsif cum Judicial Magistrate, Pallipattu is directed to dispose of the E.P.No.03 of 2023 on merits within a period of four months from the date of receipt of a copy of this order.

8. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

03-07-2025

msr

Index: Yes/No



Internet:Yes/No

To

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The II Addl. Subordinate Judge, Coimbatore



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msr

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