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CRP NPD.No.2872 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 16.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.2872 of 2025 & CMP.N.16213 of 2025

S.Srilatha

. . . Petitioner

Versus

1. M.Jayachandran
K.Mani [died]
3. R.Jakariya

. . . Respondents

PRAYER : Petition filed under section 115 Code of Civil Procedure to set aside the fair and decretal Order passed by the learned I Additional Sub Judge, Cuddalore in E.P.No.235 of 2022 in O.S.No.72 of 2004 dated 16.04.2025 and allow this revision petition.

For petitioner : Mr.S.Natarajan,
for Mr.Gokulnath R

ORDER



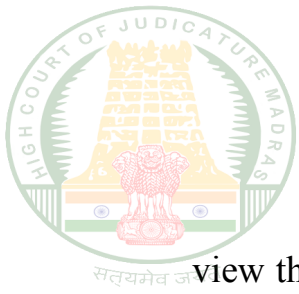
CRP NPD.No.2872 of 2025

WEB COPY

Challenge has been made to the Order passed by the Execution Court in allowing the Execution Petition and Ordering delivery, the present Civil Revision Petition has been filed.

2. The suit in O.S.No.72 of 2004 has been filed before the Sub Court, Cuddalore for specific performance. The said suit was decreed on 30.04.2010. The subject property is situate in Neyveli jurisdiction. It is to be noted that at the time of filing of the suit and passing of decree Sub Court, Cuddalore had jurisdiction to entertain the suit. Now it appears that after passing of the decree, new Sub Court has been constituted for Neyveli. Therefore, it is the contention of the revision petitioner that since the property situate within the jurisdiction of Neyveli Sub Court, the Court which had passed the decree, namely, the Sub Court, Cuddalore has no jurisdiction to entertain the Execution Petition. Challenging the same, the present Civil Revision Petition has been filed.

3. I have perused entire materials. At the outset, this Court is of the



CRP NPD.No.2872 of 2025

WEB COPY

view that the contention of the learned counsel appearing for petitioner cannot be countenanced for the simple reason that merely because new Courts have been constituted later after passing of the decree, it will not take away the jurisdiction of the original Court to execute the decree. The explanation to Section 37 of Code of Civil Procedure is very clear in this regard, which reads as follows :

The Court of first instance does not cease to have jurisdiction to execute a decree merely on the ground that after the institution of the suit wherein the decree was passed or after the passing of the decree, any area has been transferred from the jurisdiction of that Court to the jurisdiction of any other Court; but, in every such case, such other Court shall also have jurisdiction to execute the decree, if at the time of making the application for execution of the decree it would have jurisdiction to try the said suit.

Therefore, merely because new Court has been constituted after the institution of the suit or after passing of the decree, or any area has been transferred from

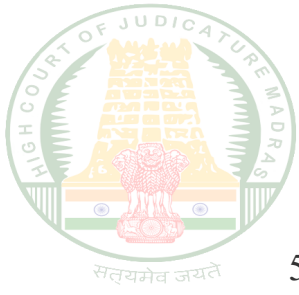


CRP NPD.No.2872 of 2025

WEB COPY

the jurisdiction of the Court to the jurisdiction of the newly constituted Court, that will not take away the jurisdiction of the original Court which passed the decree to execute the decree. Therefore, the very contention of the learned counsel appearing for the petitioner that the original Court which passed the decree ceased to have jurisdiction has no legs to stand. It is also submitted by Mr.Natarajan, learned counsel appearing for the petitioner that since the property is now situated within the jurisdiction of other Court, the execution Court cannot issue warrant for delivery of the property.

4. It is relevant to note that even immovable property forms one estate or tenure situate within the local limits of the jurisdiction of two or more Courts, any one of such Courts may attach or sell the property as per Order XXI Rule 3 of Code of Civil Procedure. Since, the Court which had passed the decree had retained the jurisdiction and the jurisdiction has not been taken out, the Execution Court had infact Ordered delivery. Therefore, now it cannot be said that the very filing of the execution Petition before the Original Court is not maintainable. Hence, I do not find any merits in this petition.



CRP NPD.No.2872 of 2025

5. Accordingly, this Civil Revision Petition is dismissed. No costs.

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Consequently, connected miscellaneous petition is closed.

16.07.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

The Additional Sub Judge,
Cuddalore.



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CRP NPD.No.2872 of 2025

N. SATHISH KUMAR, J.

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CRP NPD No.2872 of 2025

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