



C.R.P.No.3188 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.3188 of 2022

and

C.M.P.No.16977 of 2022

Manohar

... Petitioner

Vs.

Velayudham

... Respondent

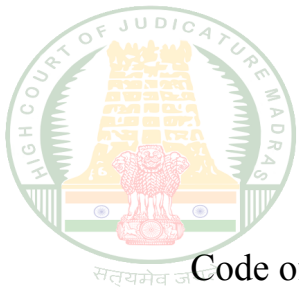
Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 30.08.2022 passed in E.A.No.67 of 2022 in E.P.No.53 of 2021 in O.S.No.57 of 2005 on the file of the Principal District Munsif Court, Cuddalore.

For Petitioner : Mr.R.Sunilkumar

For Respondent : Mr.S.Rajendran

ORDER

Challenging the order dated 30.08.2022 in E.A.No.67 of 2022 in E.P.No.53 of 2021 in O.S.No.57 of 2005 on the file of the Principal District Munsif Court, Cuddalore, dismissing the application under Section 47 of

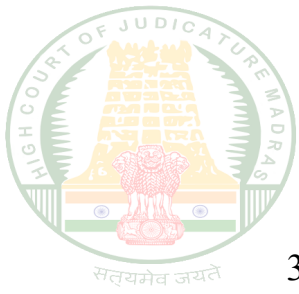


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Code of Civil Procedure, the present revision has been filed.

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2.The suit in O.S.No.57 of 2005 has been originally filed by the respondent seeking declaration of title to the B-Schedule property. According to the plaintiff, he is the owner of the property and an extent of North-South by 56 feet and East-West by 180 feet out of 66.52 Acres belongs to him, which is described as A-Schedule property in the suit. It is the case of the plaintiff that the same has been purchased by his father by registered sale deed dated 01.03.1941. Since it is a vacant land, it is in his possession. As he is a absentee landlord, the defendant, who was engaged as a labourer in the nearby field, was employed as a Watchman. The defendant encroached an extent of 100 sq.ft., i.e., 10 feet East-West and 10 feet North-South in the A-Schedule property, which is described as B-Schedule property in the suit. Therefore, the plaintiff sought for declaration of title in respect of the B-Schedule property and also for recovery of possession.



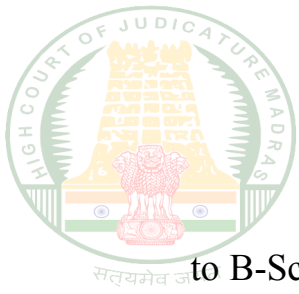
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3.In the written statement, a stand has been taken by the defendant with regard to adverse possession. The trial Court decreed the suit by judgment and decree dated 31.07.2008. The judgment and decree has reached finality upto this Court in S.A.No.1666 of 2008. Thereafter, execution has been levied in E.P.No.53 of 2021, in which, delivery has also been ordered.

4.At that stage, the present application has been filed by the defendant under Section 47 CPC. The main ground raised in the application is that the respondent/decreed holder is trying to take possession of a larger extent which is not covered under the decree. The Execution Court dismissed the application on the ground that the same has been filed only to protract the execution proceedings. Challenging the same, the present revision has been filed.

5.Learned counsel appearing for the revision petitioner would submit that, under the pretext of taking delivery of 100 sq.ft., the respondent/decreed holder is trying to recover larger extent. However, when this Court raised query as to whether he has any objection if the delivery is taken with regard

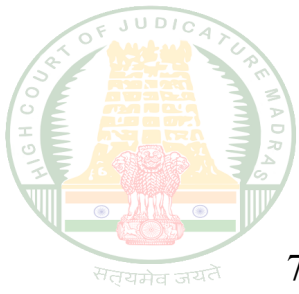


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to B-Schedule property alone which is covered under the decree, the learned counsel for the petitioner fairly submitted that, if the respondent takes possession of 100 sq.ft. alone as per the decree, the petitioner has no objection. Learned counsel for the respondent would submit that they are proceeding with execution only as per decree.

6.Though the respondent/plaintiff has pleaded as if the entire A-Schedule property belongs to him, the relief sought is only in respect of the B-Schedule property. According to the respondent, A-Schedule property is a vacant site. If the A-Schedule property other than the B-Schedule property is a vacant site, the possession in respect of the vacant site follows title. That issue has to be decided later. The crux of the issue in this *lis* is confined to declaration of title and delivery of possession with regard to 100 sq.ft., which is shown as B-Schedule property. Such being the position, when the decree and judgment in the suit has reached finality upto this Court, the judgment debtor cannot protract the proceedings by merely filing applications, one after another. Hence, I do not find any merit in this revision.



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7.However, it is made clear that, as per the decree, the respondent/decree holder is entitled to take delivery of only 100 sq.ft., described as B-Schedule property in the suit, for which, the revision petitioner/judgment debtor also has no objection. The submissions of the learned counsel on either side in this regard, are recorded.

8.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The Principal District Munsif,
Cuddalore.

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

N. SATHISH KUMAR, J.



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