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CRP NPD.No.3683 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 11.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.3683 of 2024 & CMP.No.19983 of 2024

1. Padmavathy
2. Kannan @ Varadhan

. . . Petitioners

Versus

1. Ulaganathan
2. The Tahsildar,
Thiruvallur.
3. The Revenue Divisional Office,
Thiruvallur.
4. The District Revenue Office,
Thiruvallur.
5. The District Collector,
Thiruvallur

. . . Respondents



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PRAYER : Petition filed under section 115 of Code of Civil Procedure to set aside the Order passed in E.P.No.35 of 2023 in O.S.No.18 of 2012 on the file of the Principal District Munsif Court, Thiruvallur dated 04.06.2024.

For petitioners : Ms.R.Sripriya

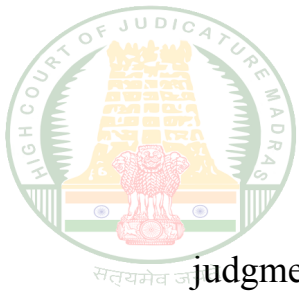
For respondents : Mr.M/R/Sreedjaran Babu – R1

Mr.P.Tamilnidhi
Additional Government Pleader – R2 to R5

ORDER

Challenging the Order of delivery passed by the Executing Court, the present Civil Revision Petition has been filed.

2. The suit in O.S.No.18 of 2012 has been filed for declaration and recovery of possession by the plaintiffs. However, the decree has been passed in favour of the first plaintiff. The second plaintiff is the vendor of the first plaintiff. Therefore, she has been arrayed only as a formal party in the suit. The suit was decreed on 07.02.023. In order to enforce the decree and



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judgment, an Execution Petition has been filed in E.P.No.35 of 2023. In the meanwhile, an appeal has also been filed by the judgment debtor before the Sub Court in A.S.No.84 of 2024. In the meanwhile, in the Execution Petition a memo has been filed before the Executing Court as if the second petitioner, viz., the second plaintiff died even during the pendency of the suit and since she was only a formal party, no need to impead the legal heirs of the second plaintiff. The trial Court has recorded the said memo and proceeded for further Orders and passed the Order for delivery of possession on 04.06.2024. Challenging the same the present revision petition has been filed.

3. It is the contention of the learned counsel appearing for the petitioner that since a memo has been filed as if the second plaintiff had died during the pendency of the suit, she has filed application to impead the legal heirs in the appeal, that is why there is a delay in pursuing the appeal. However, the fact remains that the second plaintiff died only on 26.05.225. To substantiate the same a copy of the death certificate has also been filed. According to her, the



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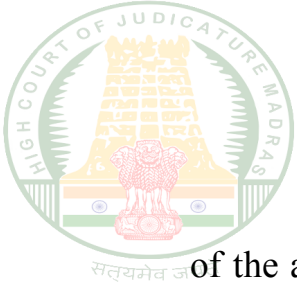
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Order has been obtained in the Execution Petition by suppressing the material facts.

4. It is the contention of the learned counsel appearing for the respondents that the Execution Petition has been proceeded as if the second plaintiff was only a formal party.

5. It is relevant to note that the Order itself has been passed on the premise that the second plaintiff died even during the pendency of the suit. But the fact remains that the second plaintiff died only recently on 26.05.2025. In such view of the matter, this Court is of the view that when the memo has been filed, the Order Ought not to have been passed by the trial Court.

6. Accordingly, this Civil Revision Petition is allowed and the Order of delivery passed in E.P.No.35 of 2023 in O.S.No.18 of 2012 dated 04.06.2024 by the Executing Court is set aside. The Executing Court shall pass fresh Orders on merits. In the meanwhile, the Sub Court is also directed to dispose



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of the appeal in A.S.No.84 of 2024 on merits within a period of three months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2025

Index : Yes / No
Internet: Yes
Speaking/non speaking order

vrc

To,

1. The Principal District Munsif,
Thiruvallur.
2. The Sub Judge,
Thiruvallur.



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N. SATHISH KUMAR, J.

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