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C.R.P.No.3305 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30..07..2025

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.No.3305 of 2025

and

C.M.P.No.18259 of 2025

R.Sivasamy

..... Petitioner

-Versus-

A.P.Subramaniam (Died)

Meenathal (Died)

1.Sulochana

2.Aravind Krishnan

3.Sivapriya

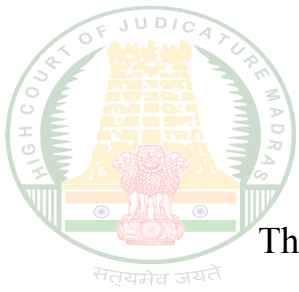
[Respondents 1 to 3 Represented by their Power Agent
Mr.S.Durairaj, Son of Subramaniam]

..... Respondents

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 25.06.2025 made in E.P.No.108 of 2022 in O.S.No.374 of 2006 on the file of the learned II Additional District and Sessions Judge, Tiruppur, by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

ORDER



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This civil revision petition has been filed challenging the order of the Executing Court (II Additional District Court) at Tiruppur, Tiruppur District, dated 25.06.2025 made in E.P.No.108 of 2022 in O.S.No.374 of 2006 on the file of the learned II Additional District Judge, Tiruppur, directing delivery of the of the suit schedule property.

2. This civil revision is listed before this court for admission.

3. The petitioner is the judgement-debtor and the respondents 1 to 3 are legal heir of the decree-holder and the 4th respondent is the Power of Attorney holder of the respondents 1 to 3.

4.1 The suit in O.S.No.374 of 2006 was filed by A.P.Sivasubramaniam, the father of the respondents 1 to 3 for specific performance of agreement of sale dated 28.04.2005 entered into by him with the revision petitioner. Canara Bank, Avanashi, was arrayed as 2nd defendant in the suit. The agreement of sale was entered by the revision petitioner for the the suit schedule property measuring an extent of purchase of an immovable property measuring an extent of Acres 3.75 cents for a total sale consideration of Rs.7,50,000/-.

4.2 The above mentioned suit was decreed based on a compromise



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entered into between the parties by judgement and decree dated 10.08.2007.

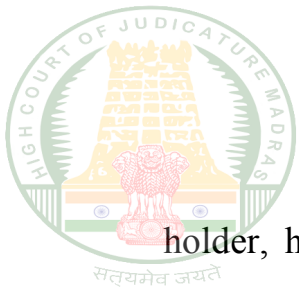
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Thereafter, as the revision petitioner did not come forward to execute the sale deed, Execution Proceedings in E.P.No.108 of 2022 came to be filed to enforce the compromise decree, in pursuance thereof, sale deed was executed by the court on behalf of the revision petitioner and thereafter, Execution Petition was posted for delivery of possession of the subject property by order dated 25.06.2025. It is this order which is now under challenge in the present revision petition.

5. It is to be noted that Execution Petition in E.P.No.108 of 2022 was originally filed by the legal representatives of the original plaintiff and after the death of the wife of the original plaintiff, the respondents 1 to 3 herein continued the execution proceedings through their Power of Attorney Holder of the Legal Representatives of the decree holder. The executing court by impugned order directed delivery of the subject property.

6. This court has heard Mr.N.Manokaran, learned counsel for the revision petitioner on the admission of the civil revision petition.

7. The learned counsel for the revision petitioner petitioner contended that the Power of Attorney Holder, who is acting on behalf of the decree



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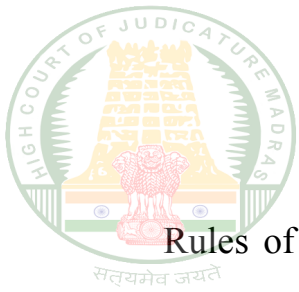
holder, has not been recognized or authorized by the court in the execution proceedings. Hence, any act of taking possession through such an unauthorized person is invalid in law.

8. The learned counsel for the revision petitioner further submitted that the sale relates only to an undivided share in the property. Therefore, respondents 1 to 3, who are the existing legal representatives of the decree holder, are not entitled to actual physical possession of any specific portion of the property unless and until the property is partitioned or appropriate proceedings are initiated for division by metes and bounds.

9. This Court considered the submissions made by the learned counsel for the revision petitioner and carefully perused the available materials.

10. Having regard to the order that is going to be passed in the matter, which would in no way cause any prejudice to the respondents, this Court is of the view that hearing them may not be necessary.

11. This Court is of the view that even assuming the Power of Attorney Holder has not obtained any specific permission from the Court to represent respondents 1 to 3 under Order III, Rule 2 of CPC and Rule 16 of the Civil



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Rules of Practice, such a defect is a curable one, and the Power of Attorney

Holder may still seek such permission from the Court. Hence, the first contention of the learned counsel for the revision petitioner cannot be countenanced and is accordingly rejected.

12. As far as the other contention that when the sale is in respect of an undivided share, the possession is joint and the property has not been partitioned or divided, and hence separate possession cannot be delivered, is concerned, it is to be noted that the judgement-debtor had lost his right over the property. In fact, he entered into a compromise and he has not retained any interest in the property.

13. As a matter of fact, pursuant to the compromise decree, a sale deed was also executed based on the orders of the executing Court. As long as no objection was raised by any of the other co-owners regarding the possession of the property conveyed in favour of the respondent herein, though not divided by metes and bounds legally, the judgement-debtor, who has lost his right over the property, cannot challenge the delivery proceedings. This court does not find any merit in the revision petition and the same deserves only to be dismissed.



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In the result, the Civil Revision Petition is dismissed. No costs.

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Index : yes / no

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Neutral Citation : yes / no

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To

1.The II Additional District Judge, Tiruppur, Tiruppur District.



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N.SATHISH KUMAR.J.,

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