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CRP No.3462 of 20--

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3462 of 2025

Mrs.Deepa

Represented by her Power Agent

Mrs.Latha

... Petitioner

Vs.

The Commissioner,
Nagapattinam Municipality,
Kaadampaadi,
Nagapattinam Town,
Nagapattinam District

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed by the District Munsif Court, Nagapattinam in E.A.No.13 of 2024 in E.P.No.27 of 2022.

For Petitioner : Mr.R.Sathiamoorthy
Foro M/s SVV Law Firm

For Respondents : Mr.J.Daniel
Govt.Advocate



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ORDER

Heard the learned counsel for the parties.

2. Learned counsel for the revision petitioner states that the petitioner is the decree holder. The respondent is the defendant in O.S.No.78 of 2012 in and by which judgment and decree dated 02.08.2017, the defendant was directed to level the suit property and hand over the same to the petitioner/decreed holder.

3. Execution Petition was filed by the petitioner in E.P.No.99 of 2018, however, for want of assistance from the revenue officials, the decree could not be executed and the execution petition came to be dismissed on 23.12.2020 during Covid period. Thereafter, the petitioner has filed a fresh Execution Petition in EP No.27 of 2022 before the District Munsif Court, Nagapattinam.. The said execution petition has been dismissed on the ground of limitation, since the decree is in the nature of mandatory injunction.

4. Learned counsel for the petitioner relies on the decision of this Court in the case of ***S.A.Azizullah and Others vs Sakthivelu and Others***



reported in *1993 1 LW 538*, where this Court held that merely because mandatory injunction decree cannot be exercised, in view of the law of limitation, it cannot be said that the other portion of the decree for decree of possession shall not be executed.

5. However, in the present case, I do not find multiple reliefs granted in favour of the revision petitioner. The relief is only for mandatory injunction. However, it is contended by the learned counsel for the petitioner that the relief itself is in the nature of relief of possession and not mandatory injunction, However, I am unable to countenance the said submission for the simple reason that the petitioner herself valued the relief only as owner for mandatory injunction and accordingly, paid court fee as well. However, at the same time, when the decree has not been satisfied and the earlier execution petition has been dismissed only for want of the assistance of revenue officials, the decree holder should not be made to suffer. The courts are entitled to keep the execution petition alive till such time the execution petition is disposed of, after satisfying the decree.

6. Even though the subsequent Execution Petition EP No.27 of 2022



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sr

may be barred, the executing court is bound to enforce the decree and in this regard, I am inclined to suo-motu re-open EP No.99 of 2018 and the said execution petition shall be disposed of on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

7. With the above direction, the civil revision petition is dismissed. No costs.

18.12.2025

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Index:yes/no
Internet:yes/no
Neutral Citation:Yes/No
Speaking/Non-Speaking Order

To

The District Munsif Court, Nagapattinam

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