



CRP.No.1310 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

**CRP No. 1310 of 2025
AND
CMP NO. 7791 OF 2025**

1. The State Of Tamil Nadu
Represented By The District
Collector, Erode District, Erode.

2.The Revenue Divisional Officer
Erode.

3.The Tahsildar
Erode.

Petitioner(s)

Vs

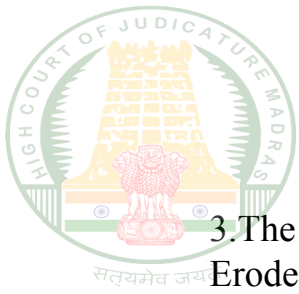
1. K.Shanmugam
S/o. Karuppana Gounder, Srinivasa
Street, Kallukkada Medu, Erode-1,
Erode Dist.

Respondent(s)

CMP No. 7791 of 2025

1. The State Of Tamil Nadu
Represented By The District
Collector, Erode District, Erode.

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3. The Tahsildar
Erode.

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Petitioner(s)

Vs

1. K.Shanmugam
S/o. Karuppana Gounder, Srinivasa
Street, Kallukkadai Medu, Erode-1,
Erode Dist.

Respondent(s)

CRP No. 1310 of 2025

PRAYER

To Set aside the Order dated 14.07.2023 EP No. 56 of 2022 in OS No. 7 of 2011 on the file of Learned Principal District Munsif Court, Erode

CMP No. 7791 of 2025

PRAYER

To stay all further proceedings in EP No. 56 of 2022 in OS No. 7 of 2011 dated 14.07.2023 on the file of Principal District Munsif Court, Erode

CRP No. 1310 of 2025 and CMP.No.7791 of 2025

For Petitioner(s): Mr.R.Ramanlaal
Additional Advocate General,
Assisted by Mrs.R.Anitha
Special Government Pleader
and Mr.T.Arun Kumar,
Additional Government Pleader

For Respondent(s): Mr. T.Balaji for
Mr.A.Thiyagarajan

**ORDER**

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Heard Mr.R.Ramanlal, the learned Additional Advocate General appearing for the petitioners and Mr.T.Balaji the learned counsel for the respondent.

2. The revision is at the instance of the Judgment Debtors in the execution petition in E.P.No.56 of 2022 in O.S.No.7 of 2011 before the learned Principal District Munsif, Erode.

3. The respondent/plaintiff has filed O.S.No.7 of 2011 seeking the relief of mandatory injunction to direct the revision petitioners to effect mutation of revenue records in the name of the plaintiff. The said suit came to be decreed on 10.10.2011.

4. According to Mr.R.Ramanlal, learned Additional Advocate General, appearing for the petitioners, the execution petition was filed only on 28.07.2022 and the Limitation Act imposes a term of only three years for executing a decree for mandatory injunction and admittedly, the execution



petition has not been filed within the prescribed period of Limitation. He has referred to Article 135 of Limitation Act in this regard, which is extracted here under:

Limitation Act, 1963

<i>Description of Suit</i>	<i>Period of limitation</i>	<i>Time for which period begins to run</i>
For the enforcement of a decree granting a mandatory injunction	Three Years	The date of the decree or where a date is fixed for performance, such date

5. He would therefore state that the execution petition itself is not maintainable and therefore the order of arrest passed by the executing Court is also bad in law and liable to be set aside. It is also state that subject suit property is water body.

6. Per contra, the learned counsel appearing for the respondent states that though the decree was passed on 10.10.2011 and a third party challenged the said decree by filing a suit in O.S.No.51 of 2012 before the Principal District Munsif Court, Erode and subsequently, the suit came to be dismissed and the petitioner had approached the Revenue Divisional Officer who had also recommended for issuance of patta to the plaintiff, in proceedings vide NA.KA.No.9824/2014/A7 dated 26.09.2014. He would

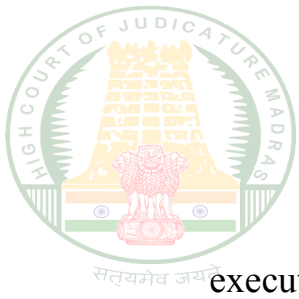


therefore state that the execution petition is within time and cannot be dismissed on the ground of being barred by limitation.

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7. I have carefully considered the submissions advanced by the learned Additional Advocate General appearing for the petitioners and the learned counsel for the respondent.

8. As already discussed, the decree was passed in O.S.No.7 of 2010 on 10.10.2011 and in terms of Article 135 of the Limitation Act, the decree for mandatory injunction has to be executed within a period of three years from the date of the decree, or where a date is fixed for performance, such date. Admittedly, in the present case, no date has been fixed for performance and therefore the time available for executing the decree would consequently be three years from the date of decree i.e., 10.10.2011. Admittedly, the execution petition has been filed only on 28.07.2022, beyond the period of three years prescribed under Article 135 of Limitation Act.



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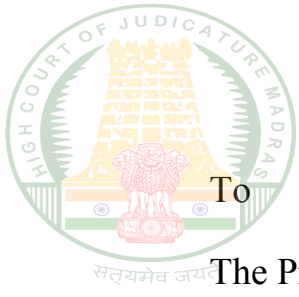
9. In view of the above, there is clear a bar for the Decree Holder to execute the decree and therefore the executing Court ought not to have proceeded to hear the execution petition and pass order of arrest.

10. In view of the above, I am inclined to set aside the impugned order dated 14.07.2023 in EP.No.56 of 2022 and also hold that the execution petition is time barred and not maintainable in law. Hence, the execution petition stands dismissed. However, the learned counsel for the respondent/plaintiff seeks for liberty to move the Writ Court in view of the recommendation of the Revenue Divisional Officer and pursue his remedy in Writ Jurisdiction. It is open to the petitioners to move the Writ Court for appropriate relief, in accordance with law.

11. In the result, this Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

09-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
Vv



To

The Principal District Munsif Court, Erode

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P.B.BALAJI J.

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