



WEB COPY



CRP NO. 5725 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP NO. 5725 of 2025 and CMP No.28500 of 2025

R. Ashok

Petitioner

Vs

V.Selvaraj
Respondent

Revision filed under Section 115 of Civil Procedure Code to set aside the impugned order dated 17.07.2025 passed by the Sub Judge, Pollachi in E.A.No.4 of 2024 in E.P.No.155 of 2009 in O.S.No59 of 2004.

For Petitioner: Ms.V.S.Usharani

For Respondent: Mr.R.Kannan

ORDER

The petitioner is the son of the judgment debtor who has suffered a decree for Specific Performance in O.S.No.59 of 2024.

2. The suit came to be decreed even in August 2009 when the father of the petitioner was very much alive. Subsequently, the respondent has also instituted execution proceedings in the year 2010 and the father of the petitioner has also contested the execution petition. In the meantime, pending



the execution petition, petitioner's father died and the decree holder has taken out application to implead the legal representatives of the deceased father and the application has been allowed. The petitioners sought for time to gather particulars and file a counter since they were not parties to the suit and according to them, they were under dark about the agreement entered into by their father. It is also the case of the petitioner that he has a share in the property which is an ancestral property.

3. Mr.Kannan, learned counsel for the caveator would submit that the petitioner was well aware of the decree and only in order to defeat the decree, a suit for partition has been filed alleging that the property is a joint family property and obtained an exparte decree only to scuttle the rights of the decree holder.

4. I find from the impugned order that the Executing Court has found that the petitioner is attempting to protract the proceedings. There is no delay in defending the execution proceedings and the petitioner has only sought for time to file a counter. The excuse is justifiable since admittedly they are not parties to the agreement of sale in a suit for specific performance and only pending execution proceedings, they have been impleaded in the year 2023.



5. In the light of the above, I am inclined to grant indulgence to the petitioner to contest the execution proceedings on merits. The order in I.A.No.4 of 2024 ,which has also been filed in time, is set aside. It is noticed that counter has been filed along with E.A.No.4 of 2024.

6. In the light of the above, the executing court shall decide the execution petition in E.P.No.155 of 2009 on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14-11-2025

Index:yes/no
Website:yes/no
Speaking Order/Non-speaking Order
sr

To
The Sub Judge, Pollachi

P.B.BALAJI.,J

sr



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