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CRP No. 4738 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

CRP No. 4738 of 2017

and

CMP No. 22295 of 2017

1.Parameswari

2. Karthic

3. Balaji

Petitioners

Vs

1. Kandan

2.Lalitha Ammal

3.Velayudham

4.Jayasankar

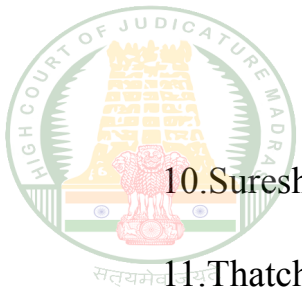
5.Velmurugan

6.Ammu

7.Jayalakshmi

8.Jamuna

9.Ekambari



10.Suresh

11.Thatchayani

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12.Lakshmi

13.Minor Gowthaman

Rep By His Nf Lakshmi Mother

Respondents

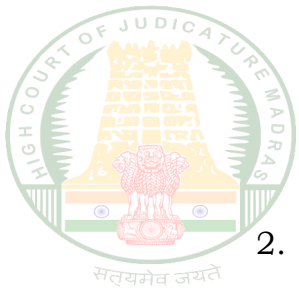
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the petition order passed in EA No.26 of 2017 in EP No.39 of 2012 in OS No.22 of 2004 dated 31.10.2017 on the file of the District Munsif Court at Ranipet, Vellore District.

For Petitioners : Mr.K.Mohanamurali

For Respondents : Mr.K.V.Ananthakrushnan for R1
R2 and R9 - Dismissed vide
order dated 08.02.2023
No appearance for R3 to R8 &
R10 to R12
R13 Minor rep by R12

ORDER

The civil revision petition has been presented by the judgment debtors 17 to 19. They presented an application in E.A.No.26 of 2017 seeking relief under Order XXI Rule 95 and 96 of the Code of Civil Procedure. The said application was dismissed. Hence, the revision.



2. This revision arises out of a suit, which had been presented for partition before the Subordinate Court at Vellore in the year 1985. It was numbered as O.S.No.11 of 1985. Thereafter, it was transferred to the file of the District Court, Vellore and renumbered as O.S.No.32 of 1991. Finally, it wound up before the Subordinate Court at Ranipet and was re-assigned the number as O.S.No.97 of 1991. A preliminary decree was passed by that Court on 28.02.1992. The plaintiff filed an application for passing a final decree.

3. In the mean time, due to enhancement of pecuniary jurisdiction, the suit stood transferred from the file of the learned Subordinate Judge, Ranipet to the file of the learned District Munsif at Ranipet and it was reassigned a fresh renumber as O.S.No.22 of 2004. The learned District Munsif at Ranipet passed a final decree on 30.01.2011. In order to put the final decree into execution, the first respondent and his mother (original plaintiffs) filed E.P.No.39 of 2012. In the said execution petition, delivery was ordered. Aggrieved by the order of delivery, a revision was preferred to this Court in CRP (NPD).No.2826 of 2013. This revision came to be allowed on 03.04.2017 on the following terms:

“19. In the result:

(a) this civil revision petition is allowed by setting aside the order passed in E.P.No.39 of 2012 in O.S.No.22 of 2004, dated 26.04.2013, on the file of the District Munsif, Ranipet, Vellore District;

(b) if the counter is not filed, the petitioners/judgment



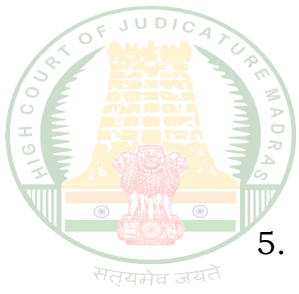
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debtors are hereby directed to file their counter in E.P.No.39 of 2012 within a period of 15 days from the date of receipt of a copy of this order;

(c) thereafter, on filing the counter by the petitioners/judgment debtors within the stipulated period granted by this Court, the learned Executing Court, namely, the District Munsif Court, Ranipet is hereby directed to dispose the E.P. by giving fair opportunity to both the parties and pass orders within a period of six weeks thereafter, without giving adjournment to either parties and both the parties are hereby directed to give their fullest cooperation for early disposal of the execution petition in E.P.No.39 of 2012;

(d) the earlier orders passed in this E.P.No.39 of 2012 is also hereby set aside. No costs.”

4. After the restoration of the execution petition back on to the file of the learned District Munsif, Ranipet, the civil revision petitioners herein filed an application under Order XXI Rule 95 read with Rule 96. This application was numbered as E.A.No.26 of 2017. The plea of the petitioners in that application is that as this Court had set aside the order of delivery, the executing court ought not to proceed further and should direct re-delivery of the schedule mentioned property, which had been taken delivery of by the first respondent/decreed holder. The learned trial judge dismissed the application and hence, this revision.



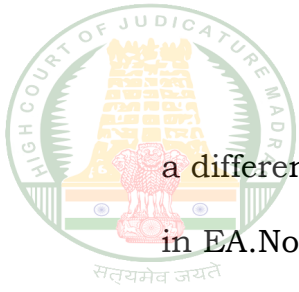
5. I heard Mr.Mohanamurali for the civil revision petitioners and Mr.K.V.Anandhakrishnan for the contesting first respondent. The other respondents having not appeared before the trial court, notice is dispensed with on them.

6. The narration of the facts shows that a preliminary decree had been passed, challenged and it had attained finality. An Advocate Commissioner had been appointed, who had also submitted a report on 04.01.2011 and on the basis of the Advocate Commissioner's report, a final decree was also passed on 31.01.2011.

7. The order of this Court in CRP(NPD).No.2826 of 2013 dated 03.04.2017 did not set aside the preliminary and final decree, but it had only directed the executing court to hear the judgment debtors and pass orders in accordance with law.

8. In terms of the order passed by this Court, the learned executing Judge had ordered delivery and delivery had also been effected on 05.01.2018.

9. As long as the decree remains intact, there is no question of ordering re-delivery of the property. A person is entitled to get re-delivery of a property, only when the decree is set aside or varied in his or her favour. Such is not a situation in the present case. I do not find any reason to take



a different view than the one taken by the learned District Munsif at Ranipet
in EA.No.26 of 2017 in E.P.No.39 of 2012 in O.S.No.22 of 2004.

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10. In the light of the above discussion, the revision is dismissed. No
costs. Consequently, the connected miscellaneous petition is closed.

19-06-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

1. The District Munsif, Ranipet,
Vellore District.



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V.LAKSHMINARAYANAN J.

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**CRP No. 4738 of 2017 and
CMP No. 22295 of 2017**



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