



CRP No.4539 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No.4539 of 2025

and CMP Nos.25769 of 2025 23074 of 2025

A.Durai

.. Petitioner

Vs

P.Silas

.. Respondent

Revision filed under Section 115 of Civil Procedure Code against the fair and final order passed in E.P.No.34 of 2023 in O.S.No.521 of 2007 on the file of I Additional District Munsif, Erode dated 18.08.2025 and set aside the same.

For Petitioner : Mr.A.Sundara Vadhanan

For Respondent : Mr.K.G.Vasudevan

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.



2. The revision petition has been filed challenging the order passed in E,P.No.34 of 2023 dated 18.08.2025. The primordial contention of the revision petitioner/judgment debtor is that there is no decree for delivery of possession, however, the respondent/decree holder has sought for recovery of possession in the execution petition. He would take me through the decree passed in the suit as well as the Execution petition filed by the respondent/decree holder.

3. Per contra, learned counsel for the respondent/decree holder would submit that decree holder is only attempting to execute the decree passed by the trial court and he is not seeking any exclusive possession.

4. I find from the decree that clause -2 provides for specific obstruction made by the revision petitioner to be removed to enable the passage to be enjoyed commonly by both the parties.

5. It is also brought to my notice by the respondent/decree holder that the decree came upto this court and was confirmed in S.A.No.523/2018 dated 21.11.2022. I do not find how the execution petition cannot be maintained



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since the decree holder has filed execution petition only in order to execute the portion of the decree directing mandatory injunction and merely because there is a mention of joint possession after removing the obstruction, does not amount to any claim by the respondent/decreed holder for exclusive possession. In any event, to give a quietus, the Executing Court shall appoint an Advocate Commissioner at the cost of the revision petitioner under whose supervision the court bailiff, in the presence of the parties, shall give effect to clause-2 of the decree.

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

31-10-2025

To
The I Additional District Munsif, Erode



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P.B.BALAJI.,J

SR

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