



C.R.P.No.390 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.390 of 2025
and C.M.P.No.2303 of 2025

1. K.Rajendran

2. Chinnaponnu

3. Murugan

... Petitioners

Vs

Alamelu (Died)

1. Sampoorani

2. Alakeshabupathi

... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, pleaded to set aside the order of arrest and detention passed in REP No.116 of 2020 in O.S.No.116 of 2014 on the file of the I Additional District Munsif Court, Salem, dated 21.10.2024.

For Petitioners : Mr.Charles Kamalesh M.Appaji

For Respondents : Mr.M.R.Jothimanian



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ORDER

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This Civil Revision Petition has been filed against the order of arrest and detention dated 21.10.2024 passed in REP No.116 of 2020 in O.S.No.116 of 2014 on the file of the I Additional District Munsif Court, Salem.

2. The brief facts of the case are that the revision petitioners are the defendants in the suit filed by the plaintiff in O.S.No.116 of 2014 before the I Additional District Munsif Court, Salem, seeking for a permanent injunction and the suit came to be decreed on 27.02.2019. Despite the knowledge of the decree dated 27.02.2019, the petitioners violated and disobeyed the same, thereby, the respondents, who are the legal heirs of the deceased plaintiff, had filed the execution petition under Order XXI Rule 11 of CPC in R.E.P.No.116 of 2020 to order to issue notice to the petitioners as per Order XXI Rule 32 of CPC to arrest the petitioners and to detain them in civil jail. The petitioners had contested the case, however, the executing Court, finding that the petitioners have not complied with the order and disobeyed the decree, has passed an interim order dated 21.10.2024, punishing the petitioners by way of arrest and detention. Aggrieved over the same, the petitioners have filed the present revision petition.



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3. Learned counsel for the petitioners submitted that the petitioners, who are the judgment debtors in O.S.No.116 of 2014, have no intention of disobeying the orders of the trial Court and they also not claim any title or right over the suit schedule property. He further submitted that the petitioners undertake that they will not interfere with the peaceful possession and occupation of the respondents/decreed holders in respect of the suit schedule property and they have also filed a common Affidavit of Undertaking to that effect. Thereby, he prayed that the Affidavit of Undertaking filed by the petitioners may be accepted and the order of arrest and detention may be set aside.

4. Learned counsel for the respondents submitted that since the petitioners have interfered with the possession and occupation with suit scheduled property of the respondents and violated the decree, the respondents have filed an execution petition in REP No.116 of 2020, however, if the petitioners abide by the undertaking given by them, the respondents have no objection in the arrest and detention order being set aside.

5. Heard both sides and perused the materials available on record including the Affidavit of Undertaking filed by the petitioners.



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6. The common Affidavit of Undertaking dated 12.02.2025 filed by the petitioners before this Court is as follows :-

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1. K. Rajendran, S/o. Komarappan@Karupachetty Gounder, No. 3/135, Pethampatti Village, Murugapatti Post, Salem Taluk, Salem – 636 307. 2. Chinnaponnu, W/o. Rajendran, No. 3/135, Pethampatti Village, Murugapatti Post Salem Taluk, Salem – 636 307. 3. Murugan, S/o. Komarappan@Karupachetty Gounder, No. 3/135, Pethampatti Village, Murugapatti Post, Salem Taluk, Salem – 636 307.	... Revision Petitioners -Vs- 1. Sampoomi, W/o. Panuvel, No. 4/311, Pethampatti Village, Murugapatti Post, Salem Taluk, Salem – 636 307. 2. Alagesa Bhagpathi, s/o. Chinnappan, No. 168/3, Avvai Nagar, Jagirammapalayam, Salem – 636302. ... Respondents
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COMMON AFFIDAVIT OF REVISION PETITIONERS

W/o. (1): K. Rajendran, S/o. Komarappan@Karupachetty Gounder, Hindu,
aged about 54 years, residing at No. 3/135, Pethampatti Village,
Murugapatti Post, Salem Taluk, Salem – 636 307; (2): Chinnaponnu, W/o.
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[Signature]
K. Chinnaponnu



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Rajendran, Hindu aged about 45 years, residing at No. 3/135, Pelhampatti Village, Murugapatti Post, Salem Taluk, Salem - 636 307. (3). Murugan, S/o. Kamarappan & Karupachetty Gounder, No. 3/135, Pelhampatti Village, Murugapatti Post, Salem Taluk, Salem - 636 307 do hereby solemnly affirm and sincerely state as follows.

1. We are Revision Petitioners herein and as such we are well conversant with the fact and circumstances of the case.
2. It is submitted that we have filed the above Civil Revision Petition challenging the detention order passed by the 1st Additional District Munsiff, Salem in REP No. 116 of 2020 dated 21.10.2024.
3. It is submitted that in the Execution Petition, it is averred that on 12.05.2020 and 03.11.2020, we have trespassed into the Execution Petition is in total violation of Judgment and Decree of Permanent Injunction granted in OS No. 116 of 2014 dated 05.02.2014 confirmed in AS No. 41 of 2019 on the file of the Principal Subordinate Judge, Salem dated 24.01.2020. The Execution Petition schedule property is detailed in Tamil hereunder.

"செல்வம் டி, செல்வம் சட்டி, செல்வம் தரங்கன், ஆகிய 10 பேர், பெத்தப்பட்டு கிராமம், எ.பெ.14/5 புர.0.56 க்கு கீழ் 1.75 இடில் இக்காலத்தில் அங்குள்ள பட்டா பாகத்தில் செல்வம் பட்டி-

வீதக்கு மேற்கு, சின்னகாவணம் வீட்டிற்கும் 10 க்கு பழனிப்பள்ளி நிலத்திற்கும் கீழ்க்கு, உடையகாவணம் வீட்டிற்கும் செல்வம் இவன் பத்திரில் கிராமம் முழு 17 -1/2

-ராஜேந்திரன்
"சின்னகாவணம்
"K. R. Ramanathan"

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தென்வடல் மன்றம் 10 இந்த அளவுள்ள நிலமும் இதில் கட்டியிருக்கும் மூன்று அங்களம் உள்ள பிள்ளு வீடு ஒன்றும் கருவு நிலவு துறை ஒன்றும் மேற்படி ஊர் வீட்டின் கட்டுக்கோப்பு சபாநாயகரும் கருவு வீட்டின் வடபுறம் தலவாசல் பக்கம் 6 முழு அகலமுள்ள வாசலும் மற்றும் தலக்கடை, புலக்கடை, சலிதரூம் ஆகிய இனவகை பூராவும் மேற்படி கிரயத்திற்கு சம்பந்தப்பட்டது. மேற்படி சொத்து வீரபாண்டி யூனியன் பஞ்சாயத்திற்கு சம்பந்தப்பட்டது.”

4. It is submitted that we have neither disputed the title of the Decree Holder in respect of the Execution Petition schedule property nor trespassed into the property at any point of time. In compliance of the undertaking given by our counsel before this Hon'ble Court on 05.02.2015 we are filing this affidavit of undertaking that we are not claiming any right or interest in the Execution Petition schedule property in REP No. 116 of 2020 on the file of I Additional District Munsiff, Salem and we will not disturb the peaceful possession and occupation of the Decree Holders in respect of the said property.

We hereby declare that the above stated matters are true to our best of knowledge and belief and we undertake to abide by this affidavit of undertaking.

Solemnly affirmed at Salem, this
the 12 day of February, 2025 and
signed their name in my presence.

ராஜகிருஷ்ண
சுமத் சந்திர பரமேஸ்வரன்
K. R. Srinivasan
Before me
H. MOHAN KUMAR, B.A., B.L.,
ADVOCATE & NOTARY
G.D. 03/02/2025, 11:58-11:2018
Advocate, Salem
Salem - 036 122
Cell: 94430 95539

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7. Taking into consideration the common Affidavit of Undertaking dated 12.02.2025 filed by the petitioners and recording the submissions made by the learned counsels on both sides, this Civil Revision Petition stands allowed and the order of arrest and detention passed by the I Additional District Munsif Court, Salem, in REP No.116 of 2020 in O.S.No.116 of 2014 on 21.10.2024, is hereby set aside. It is made clear that in the event of the petitioners interfering any further in the suit schedule properties, the respondents are entitled to proceed in accordance with law.

8. The Affidavit of Undertaking dated 12.02.2025 filed by the petitioners shall form part of the Court records. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

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To

1. The I Additional District Munsif Court, Salem.

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A.D.JAGADISH CHANDIRA, J.
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