



WEB COPY

CRP No. 811 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 811 of 2025

1. E.Jayaraman

Petitioner(s)

Vs

1. Malarrajan @ Malairajan

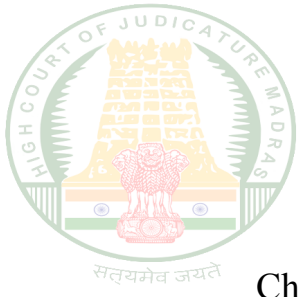
Respondent(s)

PRAYER

This writ petition has been filed under Section 115 of CPC to setting aside the order of dismissing the execution petition dated 23-08-2024 in EP.No.41/2019 in OS.No.1405/1997 on the file of the Dist.rict Munsif, Thiruvottiur.

For Petitioner(s): K.Prabhakaran

For Respondent(s): M/s R Poornima

**ORDER**

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Challenge is made to the order passed by the Executing Court dismissing the petition filed for punishing the respondent/judgment debtor.

2. The suit has been, originally, filed by the revision petitioner in O.S.No.1405 of 1977 for permanent injunction against the respondent herein and the same was decreed exparte on 13.03.2003. Though it was an exparte decree, it has not been challenged. Therefore, the petitioner has filed an execution petition in E.P.No.41 of 2019 before the District Munsif, Thiruvottriyur to punish the respondent for violating the decree of permanent injunction and the executing Court vide order dated 23.08.2024 dismissed the same. Against which, the present revision has been filed.

3. The learned counsel for the petitioner submitted that the respondent has violated the decree of permanent injunction and the executing court failed to consider the facts and dismissed the same .

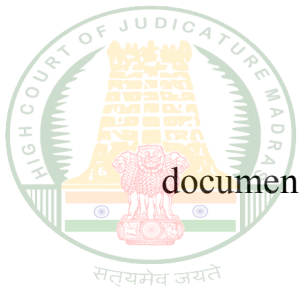


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4. Whereas the learned counsel for the respondent submitted that it is ought to be noted that the suit property is a vacant site and declared as a Government poramboke land. The patta is neither in the name of the petitioner nor the respondent. He further submitted that , in the year 1992, the revision petitioner sold the subject property to the respondent on receiving the sale consideration and executed an unregistered deed of sale and since then, the respondent has been in possession of the property and prays for dismissal of the revision.

5. I have considered the matter in the light of the submissions made by the learned counsel on bothsides and perused the materials available on records carefully.

6. Admittedly, it is the case of bare injunction. However, the respondent is alleged to have been in possession of the property from the year 1992 . There was also a sale agreement between the petitioner and the respondent. As stated above, the subject property is only a vacant site. The title or the relevant



documents are not available with either the petitioner or the respondent.

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7. The issue of actual possession as of the date of the alleged violation is to be tested by the Executing Court. The Execution Petition has been filed on the ground that the respondent has violated the decree of the Trial Court. However, no details were provided as to the specific date and time of the alleged violation. The petitioner merely alleged that the respondent had put up a gate, without stating when it was took place . Moreover, the petitioner has failed to mention about the earlier execution petition filed by him in the year 2003 (marked as Ex.R2 before the Executing Court) in the present case.

8. In view of the above, this Court is of the view that the parties should be given an opportunity to produce necessary documents before the Executing Court, including the alleged sale deed and to adduce further evidence. After providing proper opportunity, the Executing Court reconsider the issue on its own merits and decide the matter afresh.



9. Accordingly, the Civil Revision Petition is allowed and the impugned order is set aside and the matter is remanded back to the Executing Court for fresh consideration. The Execution Court shall provide an opportunity to both parties and decide the issue afresh. Since the matter requires adjudication on merits, the Court shall pass orders upon clinching evidence of violation. No costs.

24-06-2025

mrp

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The District Munsif, Thiruvottiyur.



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N.SATHISH KUMAR J.

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