



CRP.No.2595 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated 27.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.2595 of 2019
and C.M.P.No.17083 of 2019

P.Saradambal

... Petitioner

Versus

1.Saravana Mudaliar

Vadamalai Gounder (Died)
Srinivasan (Died)
Mayavan (Died)

2.Jayavalii

3.Dhananjayan

4.Ravi

5.Kamala Kannan

6.Kalpana

7.Maragathammal

8.Karathikeyan

9.Annapporanani

10.Pargunnen

11.Padmavathy

12.Barathen

13.Vissalatchy @ Vimala

14.Subramani

... Respondents

Prayer: Petition filed under Section 115 of Code of Civil Procedure, to set aside the set aside fair and decretal order dated 08.08.2011 made in E.A.No.28 of 2003



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in EP.No.230 of 1998 in O.S.No.190 of 1971 on the file of the Principal District
Munsif Court, Puducherry

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For petitioner : Mr.H.Manojin
For respondents : Mr.T.Saikrishnan for R1
R2, 5, 7 & 8 – Died
R4, 10 and 12 – No appearance
R3, 9, 11 & 13 – Left (notice unserved)

ORDER

This revision has been filed challenging the order order dated 08.08.2011 made in E.A.No.28 of 2003 in EP.No.230 of 1998 in O.S.No.190 of 1971 on the file of the Principal District Munsif Court, Puducherry.

2. In Execution Petition, E.P.No.230 of 1998, one of the legal heir/revision petitioner's father has filed an application in E.A.No.7 of 2006 under Section 47 of CPC contending inter-alia that the decree cannot be executed since the condition set out in the decree for payment of a sum of Rs.1,500/- in addition, interest due on principal amount of Rs.1000/- from 20.07.1970 upto 14.11.1970 at the rate of 8% pa., has not been paid. That apart, the property is not identifiable. The said application was dismissed by the Executing Court on 08.08.2011. The date of dismissal of the application is very relevant for disposal of this revision. The petitioner's father had already taken similar grounds challenging the decree and



judgment filed in the above application. The said dismissal order was challenged

before this Court in CRP.(NPD).No.3062 of 2013, wherein, this Court (I was the author of the order) has passed a detailed order vide order dated 24.04.2019. The same reads as follows:

9. The revision petitioners are the legal heir of Mayavan, who is the son of the Vadamalai Counder/judgment debtor in O.S.No.190 of 1971. No doubt, the suit in O.S.No.190 of 1971 was decreed as referred above only by considering equity and a sum of Rs.1,500/- along with interest on Rs.1000/- was ordered to be paid. Though the decree was passed in the year 1974, thereafter, two Execution Petitions in E.P.No.560 of 1983 and E.P.No.266 of 1994 have been filed and in E.P.No.266 of 1984, delivery was ordered. After full contest a warrant has been issued and it was returned by the Amin on account of change in cadastre number. At this stage Execution Petition was closed. In the meanwhile, revision petitioners' father Mayavan filed Second Appeal as against the decree and judgment in O.S.No.190 of 1971 and he obtained interim injunction restraining the decree holder from executing the decree from 1985 till 1998 and the injunction was in force. Thereafter, the Second Appeal was dismissed as abated. Immediately, after dismissal of the Second Appeal within the period of limitation, the Execution Petition was filed. At this stage the application under Section 47 of the Code of Civil Procedure has been filed on two grounds as stated above. It is curious to note that the decree does not contemplate deposit of the amount, only as a direction to pay additional amount on equitable basis. If such amount has not been paid, the same would have been brought to the notice of the Court at the time of hearing of the earlier Execution Petition in the year 1983 and 1984. Those Execution Petitions were ordered after full contest. The judgment debtor, who is the grand father of the petitioners herein contested the Execution Petition in E.P.No.266 of 1984. However, no whisper whatsoever has been made regarding non payment of the amount. It is also curious to



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note that in the suit filed by Mayavan, which was pending till 1988, there is no whisper with regard to the non payment of the amount directed in the decree. Similarly, even in the Execution Petition in E.P.No.266 of 1984, this plea has not been raised. After the death of Mayavan, his legal heirs have also not taken such plea. Therefore, the very factum of the delivery order in E.P.No.266 of 1984 makes it clear that there was no grievance with regard to the payment of the amount. That being the position the legal heirs father contested the decree up to the second appeal but this issue has not been raised. Therefore, the revision petitioners, being the legal heirs of Mayavan, now cannot press into service one of the conditions in the decree to non suit the decree holder. In fact they cannot take a contra view or plea other than raised by their predecessor in title viz., their father and grand father. Such being the position, I am of the view that the contention of the revision petitioners the decree is inexecutable cannot be countenanced. Similarly with regard to the identify of the property, the Execution Court has clearly found that it is only the Amin who has made such report without any authority, wherein the boundaries have been clearly identifiable and property can be delivered. Such being the position, I am of the view that whether the properties are identifiable or not cannot be the subject matter of decision under Section 47 C.P.C. If the decree holder is able to establish the identify, he is certainly entitled for delivery of the property. Hence I do not find any merits in the revision petition.”

3. The above order has attained finality. Very conveniently, the revision petitioner/daughter of the petitioner preferred this revision separately and all these days, this revision petition was kept pending, the grounds set out in this revision are as same as the ground raised by her father in the earlier application filed under Section 47 of CPC in E.A.No.7 of 2006. On revision, this Court has elaborately



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dealt and dismissed the revision. Thus, the above order applies to the revision

petitioner also. Such view of the matter, I do not find any merits in this revision.

This Court is of the view that this revision is nothing but abuse of process of law.

Though it is stated that steps are being taken to bring the legal heirs of the fifth

respondent. It is to be noted that the legal heirs of the fifth respondent is not at all

necessary, since the fifth respondent is already party in the earlier proceedings and

the above revision in CRP.(NPD).No.3062 of 2013.

4. Accordingly, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

27.06.2025

Index : Yes / No

Speaking/non speaking order

dhk

To

1. The Principal District Munsif
Principal District Munsif, Puduchery

2. The Section Officer
VR Section, Madras High Court

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N. SATHISH KUMAR, J.

dhk

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