



C.R.P.(PD)(MD)No.2178 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.2178 of 2013

Augustin

... Petitioner

Vs.

1.John (died)
2.Mary
3.J.Justin Raj
4.J.Freedy
5.J.Sheeja
6.J.Jeen
7.J.Venus

... Respondents

[R2 is already on record and recorded as legal heirs of the deceased first respondent]

[R3 to R7 are impleaded as legal heirs of first respondent vide order dated 17.07.2025]

PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 11.09.2013 passed in E.P.No.102 of 2005 in O.S.No.87 of 1998 on the file of the Principal District Munsif Court, Kuzhithurai.

For Petitioners : Ms.J.Anandhavalli
For R2 : Mr.C.K.M.Appaji



C.R.P.(PD)(MD)No.2178 of 2013

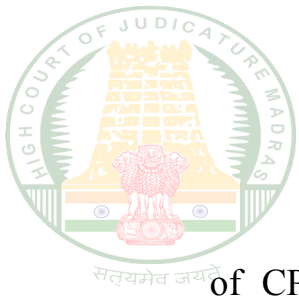
WEB COPY

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 11.09.2013 made in E.P.No.102 of 2005 in O.S.No.87 of 1998 on the file of the Principal District Munsif Court, Kuzhithurai.

2.The petitioner is the plaintiff in O.S.No.87 of 1998 filed for injunction as against the respondents claiming pathway in the backside of the suit property. The said suit was decreed on 14.08.2013 in favour of the petitioner/plaintiff. However, the respondents failed to honour the said decree. Thereby, the petitioner filed an execution petition in E.P.No.102 of 2005 under Order XXI Rule 32 of CPC. The said execution petition was dismissed. Challenging the same, the petitioner has filed this Civil Revision Petition.

3.The learned counsel for the petitioner submits that though the petitioner has obtained judgment and decree of injunction as against the respondents, the respondents failed to honour the said judgment and decree. For disobedience of the judgment and decree of the trial Court, the petitioner has filed execution petition in E.P.No.102 of 2005 under Order XXI Rule 32



C.R.P.(PD)(MD)No.2178 of 2013

WEB COPY

of CPC, which empowers the trial Court to enforce the decree through attachment of property or detention in civil prison, or both, under specific circumstances. Even then the trial Court is vested with such power, the trial Court without exercising such power, dismissed the execution petition filed by the petitioner and the same is not sustainable.

4. Now the learned counsel for the petitioner fairly submits that though the petitioner filed the execution petition under Order XXI Rule 32 of CPC seeking attachment of property or civil arrest or both, in order to put a quietus to this issue, this Court may issue a direction to the respondents to remove the three trees, namely, Mango Tree (1), Coconut Tree (1) and Ayini Tree (1), standing in the way of the petitioner's pathway and some other obstacles. She has also produced the photographs with regard to the trees and some other objects obstructing the pathway of the petitioner. She further submits that the petitioner himself agrees to bear the costs for removing the obstacles in the pathway of the petitioner.

5. Whereas, the learned counsel for the respondents submits that admittedly, the suit filed by the petitioner for injunction was decreed as



C.R.P.(PD)(MD)No.2178 of 2013

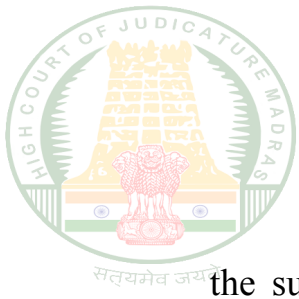
WEB COPY

against the respondents. However, the description of the property was not properly explained in the suit schedule and there is a confusion with regard to the measurement of the suit schedule property. Thereby, the execution petition filed by the petitioner was dismissed and the order of the trial Court need not be interfered.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.The facts in the present case are not in dispute. Admittedly, the petitioner is the decree holder as against the respondents. It is the duty cast upon the trial Court to enforce the said decree as against the respondents or else, the trial Court can very well mould the relief. Instead of either executing the decree and judgment or moulding the relief, the trial Court dismissed the execution petition in toto.

8.The learned counsel for the petitioner fairly submits that this Court may issue a direction to the respondents to remove the three trees, namely, Mango Tree (1), Coconut Tree (1) and Ayini Tree (1), standing in the way of



C.R.P.(PD)(MD)No.2178 of 2013

WEB COPY

the suit schedule pathway and some other obstacles in that pathway. The petitioner has also placed photographs before this Court with regard to the trees, which are standing in free flow of ingress and egress of the property and are sought to be removed.

9.Considering the facts and circumstances of the case and also considering the fair submission of the petitioner's counsel, this Court directs the petitioner himself to remove the trees standing in the pathway of the petitioner and the other obstacles obstructing free flow of the pathway. It shall be ensured that the above said trees shall be removed on or before **07.08.2025**. The expenses for such removal shall be borne by the petitioner. It is also made clear that if any law and order issue is likely to be caused by the respondents, the petitioner is at liberty to seek for police protection from the jurisdictional police station. On such request is made, the concerned Inspector of Police is directed to give necessary police protection to the petitioner for removing the trees and other obstacles in the pathway and of the petitioner.



C.R.P.(PD)(MD)No.2178 of 2013

WEB COPY

10. With the above directions, this Civil Revision Petition is disposed of. No costs.

11. List this matter on **11.08.2025 'for reporting compliance'**.

17.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ta

Note: Issue order copy on 17.07.2025

To

1. The Principal District Munsif Court, Kuzhithurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

6/7



WEB COPY



C.R.P.(PD)(MD)No.2178 of 2013

M.DHANDAPANI,J.

ta

C.R.P.(PD)(MD)No.2178 of 2013

17.07.2025