



C.R.P(MD)No.80 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

**C.R.P(MD)No.80 of 2025
and
C.M.P(MD)No.477 of 2025**

1.B.Selvan
2.Thillai Eswari
3.Karunamoorthy
4.Muthusamy
5.Muthu Natchiyar ... Revision Petitioners / Proposed respondents
Vs

1.M.Rajendran ... 1st respondent / plaintiff
2.Muthukumaran ... 2nd Respondent / 11th Defendant

Prayer : This Civil Revision Petition is filed under Article 227 of Civil Procedure Code to call for the records and set aside the order dated 17.12.2024, returning the petitioner's application in unnumbered E.A.No.SR.1454 of 2024 in E.P.No.2 of 2017 in O.S.No.45 of 1980 on the file of District Munsif cum learned Judicial Magistrate, Rameswaram and number the same and allow this Civil Revision Petition.



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For Petitioner : Mr.K.Chengiz Khan

ORDER

This Civil Revision Petition is filed to call for the records and set aside the order dated 17.12.2024, returning the petitioner's application in unnumbered E.A.No.SR.1454 of 2024 in E.P.No.2 of 2017 in O.S.No.45 of 1980 on the file of District Munsif cum learned Judicial Magistrate, Rameswaram and number the same and allow this Civil Revision Petition.

2. Against the return order passed by the Execution Court dated 17.12.2024, this Civil Revision Petition is preferred. The above said return was made by the execution Court stating that as per the order of this Court in C.R.P.(MD)No.1302 of 2024, the petition is not maintainable.

3. Per contra, learned counsel for the revision petitioner would submit that he is an occupant of the subject matter of the property from the time immemorial. He built a house and residing there.



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4. Regarding the merits of the matter, this Court may take the submission, however it may not be proper on the part of the execution Court to return the petition which was filed under Order 21 Rule 97 and Section 151 of C.P.C., without even numbering the same. Whether the petition is maintainable or not is to be decided on the judicial side. In the execution petition mentioned by the execution Court, this petitioner is not a party.

5. Therefore, there shall be a direction to the District Munsif cum learned Judicial Magistrate, Rameswaram, to process the application in unnumbered E.A.No.SR.1454 of 2024 in E.P.No.2 of 2017 in O.S.No.45 of 1980, filed by the petitioner in accordance with law and if any doubt arises with regard to the maintainability, the same shall be decided on its own merits on the judicial side after affording opportunity to the petitioner.

6. With this above direction, this Civil Revision Petition is allowed. Let the original petition be returned to the revision petitioner



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for further proceedings, after getting acknowledgment. No costs.

Consequently, connected miscellaneous petition stands closed.

NCC :Yes/No

23.01.2025

Index :Yes/No

Internet : Yes/ No

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To

- 1.The District Munsif cum Judicial Magistrate, Gandarvakottai.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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ORDER
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