



C.R..P.(NPD)(MD).No.366 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.366 of 2025

1. Murugayammal

2. Muthammal

3. Saraswathi

4. Shanmugarajan

5. Sangeetha

6. Sampooranam

7. Parvathi

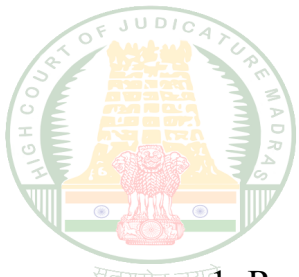
... Petitioners/Petitioners/
Nil/Nil

Vs.

Malayappa Gounder (Died)
S/o. Palanichamy Gounder

Chinna Karuppayammal (Died)
W/o. (Late) Malaiappa Goundar

Kandasamy (Died)
S/o. (Late) Malaiappa Goundar



C.R..P.(NPD)(MD).No.366 of 2025

1. Ramasamy
WEB COPY

2. Sivasamy

3. Karuppayammal

4. Jamunarani

5. Parameshwaran

... Respondents 1 to 5/
Respondents 4 to 8/
Petitioners 4 to 8/
Plaintiffs 4 to 8

Natarajan (Died)
S/o.Krishnasamy Naicker (Late)

6. Krishnamoorthy

7. Jeyachandran

8. Palanichamy

9.Saraswathi

... Respondents 6 to 9/
Respondents 10 to 13/
Respondents 2 to 5/
Defendants 2 to 5

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to direct the Additional Sub Court, Dindigul District to number the E.A.S.R.No.12314 of 2024 in E.P.No.96 of 2022 in O.S.No.1239 of 1979 as expeditiously as possible and within the time stipulated by this Court.

For Petitioners : Mr.T.Manikandan



C.R..P.(NPD)(MD).No.366 of 2025

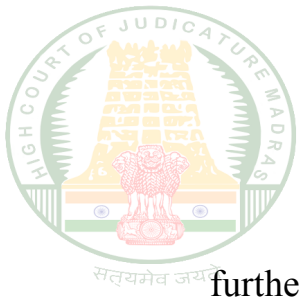
ORDER

WEB COPY

The third parties to O.S.No.1239 of 1979 on the file of the Additional Sub Court, Dindigul, are the revision petitioners herein.

2. The respondents 1 to 5 herein as plaintiffs have filed the above said suit for the relief of specific performance and the suit was decreed on 09.09.1985. The defendants have filed A.S.No.1000 of 1985 before the High Court and the said appeal was dismissed on 19.11.1990. Armed with the said decree, the decree holder has filed E.P.No.21 of 2008, for execution of sale deed. The sale deed was executed and the said execution petition was closed on 14.09.2021. Thereafter, E.P.No.96 of 2022 has been filed to direct the defendants in the suit to hand over the possession of the property.

3. Pending the said execution proceedings, the revision petitioners herein have filed O.S.No.132 of 2022 on the file of the District Munsif Court, Dindigul, for the relief of partition, the permanent injunction and to declare the sale agreement dated 27.09.1979 as null and void, and to declare the judgment of the High Court in A.S.No.1000 of 1985 as null and void and for

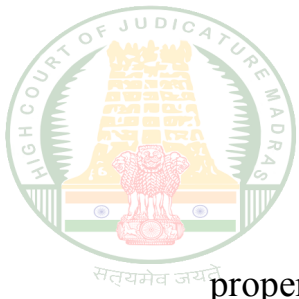


C.R..P.(NPD)(MD).No.366 of 2025

WEB COPY

further reliefs. Pending the said suit, the plaintiffs therein have filed E.A.S.R.No.12314 of 2024 before the Additional Sub Court, Dindigul under Section 47 of C.P.C, making a claim over the property which is subject matter of the specific performance suit. This application has been returned by the Execution Court on the ground that when O.S.No.132 of 2022 is pending before the District Munsif Court, Dindigul, how the present E.A is maintainable. Challenging the said return order, the present Civil Revision Petition has been filed.

4. A perusal of the records reveal that the suit has been filed in the year 2022 and the present application in E.A.S.R.No.12314 of 2024 has been filed on 02.10.2024. Though the present application has been filed under Section 47 of C.P.C, the revision petitioners herein being third parties to the civil suit, it should only be construed to be an application under Order 21 Rule 97 of C.P.C. In view of Order 21 Rule 104 of C.P.C, in case if any civil suit is pending with regard to the same property claiming title, any order passed under Order 21 Rule 97 of C.P.C., will be subject to the result of the said suit. Therefore, it is clear that an application under Order 21 Rule 97 of C.P.C is maintainable, even though, a civil suit is pending claiming title to the



C.R..P.(NPD)(MD).No.366 of 2025

WEB COPY

properties. In such circumstances, the pendency of O.S.No.132 of 2022 cannot be a legal impediment for entertaining an application. However, any order passed in Order 21 Rule 97 of C.P.C will always be subject to the result of the decree in O.S.No.132 of 2022.

5. In view of the above said facts, the learned Additional Subordinate Judge, Dindigul is directed to number the E.A.S.R.No.12314 of 2024, if it is otherwise in order. The original petition may be returned to the learned counsel appearing for the revision petitioners, after obtaining appropriate acknowledgment.

6. With the above said observations, this Civil Revision Petition stands disposed of. There shall be no order as to costs.

17.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi



C.R..P.(NPD)(MD).No.366 of 2025

WEB COPY

To

1. The Additional Sub Court,
Dindigul District.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(NPD)(MD).No.366 of 2025

R.VIJAYAKUMAR,J.

ebsi

C.R.P(NPD)(MD)No.366 of 2025

17.02.2025