



C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

and

C.M.P(MD)Nos.4893 & 4894 of 2025

C.R.P.(NPD)(MD)No.914 of 2025

Jeyakumar

...Petitioner/Petitioner/Respondent/
1st Defendant

Vs.

1.Chandra Kumar

2.Suyambukani Ammal

...Respondents/Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in E.A.No.41 of 2024 in E.P.No.2 of 2024 in O.S.No.25 of 2015 on the file of the District Munsif, Sathankulam, dated 29-01-2025.

For Petitioner : Mr.R.Balakrishnan

* * * * *

C.R.P.(NPD)(MD)No.915 of 2025

Jeyakumar

...Petitioner/Petitioner/Respondent/
1st Defendant



C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

Vs.

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1.Chandra Kumar
2.Suyambukani Ammal

...Respondents/Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in E.A.No.40 of 2024 in E.P.No.2 of 2024 in O.S.No.25 of 2015 on the file of the District Munsif, Sathankulam, dated 29-01-2025.

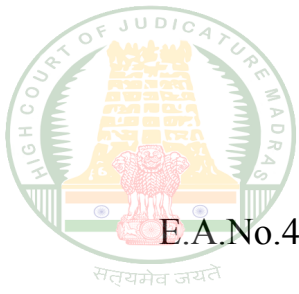
For Petitioner : Mr.R.Balakrishnan

* * * * *

COMMON ORDER

The first defendant in O.S.No.25 of 2015, on the file of the District Munsif Court, Sathankulam, has filed the present revision petitions challenging the dismissal of his stay petition in the execution proceeding and the dismissal of an application filed under Section 47 of C.P.C.

2.The respondents herein as plaintiff have filed the above said suit for the relief of declaration of title and recovery of possession. The suit was decreed on 18.08.2022. So far, no appeal has been filed and the decree has attained finality. In order to execute the decree for recovery of possession, the plaintiffs have filed E.P.No.2 of 2024. Pending such an application, the defendant has filed

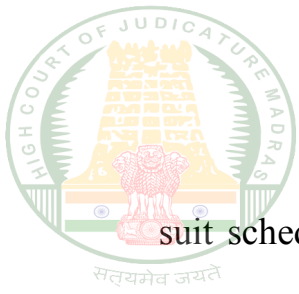


C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

E.A.No.40 of 2024, under Section 47 of C.P.C. contending that the thatched house that is mentioned in the suit schedule property, is not within the four boundaries mentioned in the suit schedule and therefore, the decree is in-executable.

3.The trial Court after considering the same, has proceeded to dismiss the said application on the ground that except such pleadings and the arguments, no document has been placed by the defendant. The trial Court has further found that Amin has not filed any report before the Court, returning the warrant to the effect that he is not in a position to deliver the suit schedule property to the decree holder. On the above said observations, the trial Court has dismissed the Section 47 application. The trial Court has proceeded to dismiss E.A.No.41 of 2024, on the ground that the judgment debtor has sought for stay of execution proceedings only till the disposal of Section 47 application. Challenging these two orders, the present revision petitions have been filed.

4.According to the learned Counsel appearing for the revision petitioners, thatched house which is shown as the suit schedule property does not fall within the four boundaries as mentioned in the suit schedule. Now the Amin has marked a place which is different from that of the boundaries mentioned in the



C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

suit schedule and therefore, according to him, the decree is in-executable and the Section 47 application should have been allowed.

5.I have considered the submissions made on either side and perused the materials available on record.

6.A perusal of the written statement filed by the defendants reveal that the defendants have not raised any plea in their written statement that thatched house is not located within the four boundaries mentioned in the suit schedule. No averments have been made in the written statement disputing the lie and location of the property. Therefore, the said issue cannot be raised during execution proceedings. The decree has been passed only in consonance with the prayer sought for in the plaint.

7.In case, if the petitioners have grievances over the act of the Amin in fixing the wrong boundaries, it is for them to file appropriate applications before the trial Court. In such circumstances, this Court does not find any merits in both the revision petitions.



C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

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8. Accordingly, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

24.03.2025

Internet: Yes/No

Index: Yes/No

RJR

To

The learned District Munsif,
Sathankulam.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

R.VIJAYAKUMAR, J.

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C.R.P.(NPD)(MD)Nos.914 & 915 of 2025

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