



C.R.P(NPD)(MD)No.660 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.660 of 2023
and C.M.P.(MD)No.3073 of 2023

Velayuatham

... Petitioner

Vs

Iyyappan

... Respondent

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to call for the records relating to Docket order passed by learned District Munsif Cum Judicial Magistrate, Boothapandi in E.P.No.01 of 2023 in O.S.No.26 of 2015 dated 14.02.2023 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar

For Respondent : Mr.V.Meenakshisundaram

ORDER

This Civil Revision Petition is filed to call for the records relating to the Docket order passed by learned District Munsif Cum Judicial



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Magistrate, Boothapandi in E.P.No.01 of 2023 in O.S.No.26 of 2015
dated 14.02.2023 and set aside the same.

2. The facts in brief:

Suit in O.S.No.26 of 2015 was filed by this revision petitioner, seeking the relief of permanent injunction and for costs. The defendant filed a counter claim, claiming recovery of possession of the suit property, mesne profits at the rate of Rs.2,000/- per month and costs. The suit filed by the revision petitioner for permanent injunction was dismissed, whereas the counter claim was allowed/decreed. The decree was passed on 29.11.2022. Immediately E.P.No.1 of 2023 was filed on 14.02.2023 for delivery. Delivery was ordered by the Execution Court by the order dated 14.02.2023. Against which, this revision is preferred on the ground that no opportunity was given to the revision petitioner to file an appeal against the decree and judgment in the counter claim.

3. Heard both sides.

4. As mentioned above, only a limited ground is made by the revision petitioner stating that without affording an opportunity either to



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file appeal or to file counter, delivery was ordered by the Execution Court. Perusal of the order of the Execution Court shows that since the Execution Petition is filed within two years from the date of decree, it entertained the petition and delivery was ordered. As mentioned above, the date of decree is 29.11.2022. Execution Petition was filed on 14.02.2023. Whether appeal was preferred by the revision petitioner within the time stipulated is not known. Even now, there is no reference to show that appeal was filed by him. Therefore, without approaching the appellate Court, straight away he has filed this petition, which is not maintainable. Hence, I find no reason to entertain this Civil Revision Petition and the same deserves to be dismissed.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

22.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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G.ILANGOVA, J.

vsm

To

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

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22.01.2025