



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 26.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.979 of 2025

and

C.M.P(MD)No.5263 of 2025

Mr.PS Manian alies Subramanian

...Petitioner/Petitioner/

4th Respondent/4th Defendant

Vs.

1.Venkatachalapathy

2.Rajamanickam

3.Soudarajan

4.Kamalam

5.Manoranjitham

6.Gandhimathi

7.S.K.M.Parandaman

...Respondent Nos.1 to 7/Plaintiffs

8.Sivasubramanian

9.Jayaraman

10.Saravanan

...Respondent Nos.8 to 10/Defendants 1 to 3

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 20-02-2025 made in E.A.No.24/2015 in E.P.No.13/2010 in O.S.No.114 of 2002 on the file of the Principal District Munsif, Vendasandur, Dindigul District.

For Petitioner : Mr.Jegan Manohar

* * * * *

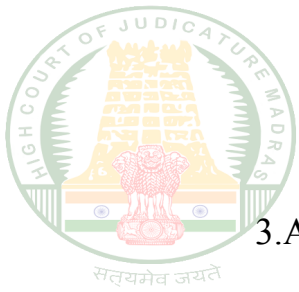


ORDER

WEB COPY

The fourth defendant in O.S.No.114 of 2002, on the file of the Principal District Munsif Court, Vedasanthur, has filed the present revision petition, challenging the dismissal of his Section 47 application filed in E.P.No.13 of 2010.

2.A perusal of the records reveal that the respondents 1 to 7 in the present revision petition have filed the above suit for the relief of declaration of title, recovery of possession and mandatory injunction. All the defendants have remained ex-parte and an ex-parte decree came to be passed on 12.06.2008. The decree holder has filed E.P.No.13 of 2010, to execute the decree for recovery of possession and mandatory injunction. While E.P. was pending for five years, the present application in E.A.No.24 of 2015, has been filed contending that the suit schedule property has been erroneously mentioned and the boundaries and the extent mentioned in the suit schedule are wrong. This application came to be dismissed by the executing Court on the ground that the objections that were not raised during trial, cannot raised during the execution proceedings. Challenging the same, the present revision petition has been filed.



3. According to the learned Counsel appearing for the revision petitioner, the plaintiffs have mentioned wrong survey number, boundaries and the identity of the property are also wrong. In such circumstances, the execution of the decree should not have been proceeded with by the executing Court.

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

5. It is settled position of law that objections relating to the identify and location of the property can be raised only during trial. The defendants having remained ex-parte during the trial, cannot raise the said objection during the execution proceedings. It amounts to permitting the defendant to have a re-trial of the entire suit in the execution proceedings. The trial Court has rightly dismissed the said application. No ground has been raised questioning the jurisdiction of the Court or the validity of the decree.

6. In such circumstances, there are no merits in the Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

26.03.2025

Internet: Yes/No
Index: Yes/No
RJR



WEB COPY

R.VIJAYAKUMAR, J.

RJR

To

The learned Principal District Munsif, Vendasandur,
Dindigul District.

Copy to:-

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

C.R.P.(NPD)(MD)No.979 of 2025

26.03.2025