

CRP(MD). No.1021 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 01/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

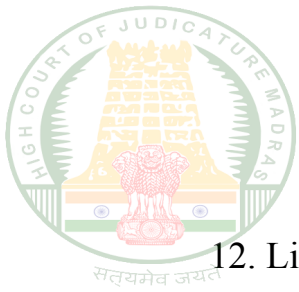
**CRP (MD). No.1021 of 2022
and CMP(MD) No.4077 of 2022**

Pushpam

... Petitioner

Vs

1. Jespheenammal
2. Dharmakkon
3. Soosainayagam
4. Rajamony
5. Nesaraj
6. Sundaram Alias Vettothi Sundaram,
7. Margret
8. Albin Dhas
9. Joseph Dhas
10. Angli Dhas
11. Xavier Issac Dhas



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12. Libin Dhas

13. Sobia Selvi

14. Felinthal

15. Subitha Selvi

16. Helan Selvi

... Respondents

PRAYER :-Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records pertaining to the Impugned Execution proceedings in E.P. No. 22 of 2020 in O.S. No. 51 of 2009 dated 23.09.2021 on the file of the Sub Court, Kuzhithurai and to set aside the same and thereby allow the Civil Revision Petition

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.K.N.Thampi for R1,3,4,7 to 16

No appearance for R5&R6

ORDER

The Civil Revision Petition is filed against the impugned execution proceedings in EP No.22 of 2020 in OS No.51 of 2009 on the file of the Sub Court, Kuzhithurai.

2. The learned counsel for the petitioner would submit that the petitioner is the third defendant in OS No.51 of 2009 on the file of the Sub Court, Kuzhithurai and the suit was filed by the first



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respondent/plaintiff for partition and the same was decreed by consent and thereafter the first respondent/plaintiff filed EP No.22/2020 and the same was allowed in her favour vide order dated 23.11.2020 and the petitioner is aggrieved by the same filed a revision petition in CRP(MD) No.1493/2021 and this Court dismissed the said petition by confirming the order dated 23.11.2020. Pending the said Civil Revision Petition, delivery was effected vide order dated 23.09.2021 and the petitioner is aggrieved by the same and filed this Civil Revision Petition.

3. The learned counsel for the respondents would however submit that already the very same petitioner filed CRP(MD) No.1493/2021 against the very same EP, which was dismissed by this Court on 02.03.2022 and against the very same execution proceedings, an order has been passed by effecting delivery, which is challenged in the present civil revision petition and hence the same EP cannot be challenged before this Court, which will give rise to multiplicity of litigation, which is impermissible and it is a clear case of *res judicata*.



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4. I have considered the rival submissions and perused the materials available on record.

5. When the plaintiff has filed execution proceedings and delivery was effected by consent and when the very same execution proceedings challenged in CRP(MD) No.1493/2021 before this Court was dismissed and against the very same execution proceedings, the present petition has been filed. Against the preliminary decree passed by the trial Court, there is an appeal remedy available, however, instead of challenging the same before the Court below, filing Civil Revision Petition is not sustainable. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

01.07.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The Sub Court, Kuzhithurai

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1021 of 2022**

Date : 01/07/2025