



C.R..P.(NPD)(MD).Nos.1100 to 1102 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)Nos.1100 to 1102 of 2025

and

C.M.P(MD) No.5971 of 2025

In all cases:

J.Prathiba Nesam

... Petitioner/Petitioner
Petitioner/Third Party/
Third Party

Vs.

1. Subburaj

... 1st Respondent/
1st Respondent/
1st Respondent/Petitioner
/Plaintiff

2. Jeyaraj

... 2nd Respondent/
2nd Respondent/
2nd Respondent/
Respondent/Defendant

COMMON PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code, to set aside the fair and decretal order dated 13.02.2025 passed in E.A.Nos.13, 14 and 15 of 2025 in E.A.No.6 of 2021 in E.P.No.18 of 2014 in O.S.No.137 of 2008 on the file of the Subordinate Court, Thoothukudi and allow these Civil Revision Petitions.



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In all petitions:

For Petitioner : Mr.R.J.Karthick

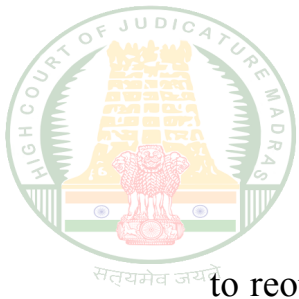
For R1 : Mr.S.Kadarkarai

COMMON ORDER

A third party to O.S.No.137 of 2008 on the file of the Sub Court, Thoothukudi, has filed the present Civil Revision Petitions challenging the dismissal of her applications filed in E.A.Nos.13, 14 and 15 of 2025.

2. A perusal of the records reveal that the first respondent herein as plaintiff has filed the above said suit for the relief of declaration of title and recovery of possession. The suit was decreed on 30.09.2013. In order to execute the said decree, the decree holder had filed E.P.No.18 of 2014. Pending the said application, the daughter of the defendant has filed E.A.No.6 of 2021 under Order 21 Rule 97 of C.P.C resisting to the prayer for delivery of the property.

3. When the recording of the evidence on either side was closed in E.A.No.6 of 2021, the revision petitioner herein has filed E.A.No.13 of 2025



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to reopen the case, E.A.No.14 of 2025 to recall P.W.1 and for examination of other witnesses and E.A.No.15 of 2025 for marking additional documents. These three applications came to be dismissed by the trial Court. Challenging the same, the present Civil Revision Petitions have been filed.

4. According to the learned counsel appearing for the revision petitioner, the plaintiff's claim for title on the basis of a power deed said to have been executed by her mother on 04.01.2002. The said power deed has been executed by way of impersonation. However, her mother has executed a Will in her favour on 20.07.2005, she had passed away on 30.07.2005 and thus she has become owner of the property.

5. The learned counsel appearing for the petitioner has further contended that she being the owner of the property, the suit was not filed as against her but the suit was filed only as against her father seeking recovery of possession. In such circumstances, the revision petitioner wants to examine the power agent and another person connected with the power deed. Hence, the examination of those persons are necessary for establishing her title over the suit schedule properties.



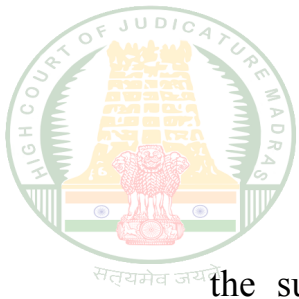
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6. Per contra, the learned counsel appearing for the first respondent/decree holder submitted that the said persons who are sought to be examined on the side of the revision petitioner, namely, Jebaraj David and Varadharaj, have already been examined as P.W.2 and P.W.3 in the suit. The revision petitioner has examined herself as D.W2 in the suit. During her examination, she has not deposed anything about the Will dated 20.07.2005 said to have been executed by her mother. In such circumstances, reopening of the petitioner side for examination of additional witnesses and marking the documents are unnecessary and they have been filed only to drag on the proceedings.

7. Heard both sides and perused the materials available on record.

8. The entire case of the revision petitioner rests upon the Will dated 20.07.2005 said to have been executed by her mother. Therefore, it is for the revision petitioner, to examine the attesting witnesses of the said Will in order to prove her title. In such circumstances, the examination of the power agents will not improve the case of the revision petitioner herein. The issue relating to the validity of the power deed and sale deeds have already been declared in



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the suit. Only if the revision petitioner establishes the genuineness and validity of the Will dated 20.07.2005, she will be in a position to get an order. In such circumstances, examination of persons who are unconnected with the Will would be unnecessary. In such circumstances, the trial Court has rightly rejected the applications and there are no merits in these Civil Revision Petitions.

9. Accordingly, these Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

09.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Subordinate Court,
Thoothukudi.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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