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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.1276 of 2025

and

C.M.P(MD)No.6697 of 2025

1.M.Vellathai
2.M.Muthammal
3.Murugathal @ Muthulakshmi
4.Krishnammal ...Petitioners/Petitioners/3rd Party

Vs

1.S.Marithurai
2.Periyathai
3.Maruthupandian
4.M.Vijayalakshmi
....Respondents 2 to 4/Respondents 2 to 4/
Respondents 2 to 4/Defendants 2,3 & 4

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the docket order passed in Unnumbered E.A.No. /2024 in E.P.No.36 of 2022 in O.S.No.337 of 2016 dated 03.10.2024, passed by the learned Principal District Munsif Court, Alangulam, and set aside the same by allowing the Civil Revision Petition.

For Petitioners : Mr.S.Arivalagan

* * * * *



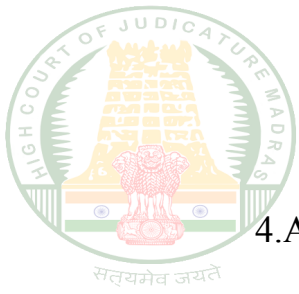
ORDER

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The third parties to O.S.No.337 of 2016, on the file of the Principal District Munsif Court, Alangulam, have filed the present revision petition challenging the dismissal of an application filed under Order 21 Rule 97 of C.P.C.(wrongly mentioned as Section 47 application) without even being numbered.

2.A perusal of the records reveal that the first respondent in the revision petition has filed the suit for recovery of possession as against the defendants 2 to 4. The suit was decreed and the decree holder has filed E.P.No.36 of 2022, seeking delivery of the property.

3.According to the learned Counsel appearing for the revision petitioners, he is the owner of the property and without impleading him, such a decree has been obtained collusively by the plaintiff/decreed holder. Therefore, the revision petitioners have filed an execution application under Order 21 Rule 97 of C.P.C. to set aside the decree not to deliver the property in favour of the decree holder. This application came to be dismissed by the executing Court without even numbering the same. He has also pointed out that delivery has already been effected on 27.09.2024. Challenging the said order, the present revision petition has been filed.



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4. According to the learned Counsel appearing for the revision petitioners, the decree is a collusive one without impleading the real owner of the property. He has further contended that the suit for partition is pending.

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

6. Even though, the application has been filed under Section 47 of C.P.C., application having been filed by third parties to the suit making claim over the property, it should only be construed to be an application under Order 21 of 1908 of C.P.C. In such circumstances, the order passed by the Court is an appealable order as contemplated under Order 21 Rule 103 of C.P.C. Therefore, the revision petition is not maintainable.

7. Accordingly, this Civil Revision Petition is disposed of with liberty to the petitioners to file an appeal before the competent appellate Court.

22.04.2025

Internet: Yes/No

Index: Yes/No

RJR

Note: The Registry is directed to return the original impugned order after obtaining due signature from the learned Counsel appearing for the revision petitioner.



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R.VIJAYAKUMAR, J.

RJR

To

The learned Principal District Munsif,
Alangulam.

Copy to:-

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

C.R.P.(NPD)(MD)No.1276 of 2025

22.04.2025