



C.R..P.(PD)(MD).No.1643 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1643 of 2025

and

C.M.P.(MD)No.8585 of 2025

P.Manokaran (died)

Arul Mozhi Selvi

... Petitioner

Vs.

1.P.Palsamy

2.S.Karthika Mano

3.M.Perm Mano

... Respondent

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to strike off the execution petition in E.P.No.61 of 2024 in O.S.No.39 of 2022 on the file of the Sub Court, Sattur.

For Petitioner : Mr.A.Manikandan

ORDER

This Civil Revision Petition is filed seeking to strike off the execution petition in E.P.No.61 of 2024 in O.S.No.39 of 2022 on the file of the Sub Court, Sattur.

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C.R..P.(PD)(MD).No.1643 of 2025

WEB COPY

2.Since no adverse order is going to be passed as against the respondents, notice to the respondents is dispensed with.

3.The petitioner is the defendant in O.S.No.39 of 2022 on the file of the Sub Court, Sattur. The said suit was decreed in favour of the plaintiff. As against said judgment and decree, the defendant filed an appeal before the Lower Appellate Court. However, the same is yet to be numbered. In the meanwhile, the respondent / plaintiff filed an execution proceedings in E.P.No.61 of 2024 on the file of the Sub Court, Sattur. Seeking to strike off the said execution petition, the petitioner has filed this Civil Revision Petition is filed.

4.The learned counsel for the petitioner submits that the petitioner filed an appeal as against the judgment and decree granted in favour of the plaintiff. Though the said appeal is pending without numbering, the execution petition was ordered. He further submits that the petitioner prefers to deposit 50% of the decree amount before the Lower Appellate Court and accordingly, he prays for appropriate orders.



C.R..P.(PD)(MD).No.1643 of 2025

WEB COPY

5.The fact remains that the respondent/plaintiff filed a suit for recovery of money and obtained a decree in his favour. When the decree is in force, the decree holder is entitled to file an execution petition to execute the said decree. If the defendant is aggrieved by the said decree, it is for him to challenge the same within the time prescribed under the Limitation Act. In the present case, even after a lapse of one year, the defendant did not take any effective steps as against the decree holder. As such the execution petition filed by the respondent/plaintiff was rightly allowed by the trial Court and the said order need not be interfered with.

6.It is to be noted that though it is urged by the petitioner that the petitioner is ready to deposit 50% of the decree amount in the pending appeal, this Court is of the view that he can very well make such a plea before the Lower Appellate Court. By way of this Civil Revision Petition, the petitioner is trying to achieve, what he could not achieve before the Lower Appellate Court.



C.R..P.(PD)(MD).No.1643 of 2025

WEB COPY

7. Accordingly, this Civil Revision Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy with regard to the deposit of the decree amount before the Lower Appellate Court. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2025

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

1.The Sub Court, Sattur.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.R..P.(PD)(MD).No.1643 of 2025

M.DHANDAPANI,J.

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