



C.R..P.(PD)(MD).No.1962 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.1962 of 2022

and

C.M.P(MD) No.9009 of 2022

Ramamoorthy

... Petitioner/Petitioner/
3rd Party/Nil/Nil

Vs.

1. V.K.Paramasivam

... 1st Respondent/
1st Respondent/
Judgment Debtor/
Respondent/3rd Defendant

2. Chandrasekaran

... 2nd Respondent/
2nd Respondent/
Decree holder/
Petitioner/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, as against the returned order dated 23.04.2022 passed by the Additional District Munsif Court, Thanjavur in E.A.No of 2022 in E.P.No.84 of 2019 in O.S.No.294 of 1997 by allowing the Civil Revision Petition.

For Petitioner : Mr.R.Paranjothi

For R1 : Mr.A.Saravanan



C.R..P.(PD)(MD).No.1962 of 2022

WEB COPY

ORDER

A 3rd party to O.S.No.294 of 1997 has filed the present Civil Revision Petition seeking a direction to the Additional District Munsif Court, Thanjavur, for numbering an Execution Application which was filed by him under order 21 Rule 97 of C.P.C.

2. A perusal of the records reveal that the second respondent herein had filed O.S.No.294 of 1997 for the relief of specific performance. Though the suit was dismissed by the trial Court, the first appellate Court has decreed the said suit. The decree for specific performance has been confirmed by the Hon'ble High Court as well as by the Hon'ble Supreme Court. Based upon the said decree, the second respondent herein had filed E.P.No.84 of 2019 for execution of sale deed. The Court has executed the sale deed on 12.08.2022. At that stage, the revision petitioner has filed an execution application under Order 21 Rule 97 of C.P.C, contending that he is a cultivating tenant of the suit schedule property and therefore, physical possession cannot be taken by the decree holder. This application has been returned by the Executing Court



C.R..P.(PD)(MD).No.1962 of 2022

WEB COPY

on the ground that so far no delivery application has been filed by the decree holder. Challenging the same, the present Civil Revision Petition has been filed.

3. Heard the learned counsel appearing for the revision petitioner and perused the material on records.

4. Even though, the Court has executed a sale deed in favour of the decree holder on 12.08.2022, so far, no application has been filed by the decree holder to take delivery of the property. Only if an application for delivery has been filed, the question of obstructing or resisting the delivery would arise. In such circumstances, the trial Court has rightly returned the application. Therefore, this Court is not inclined to interfere in the order of return. In case if any delivery application filed by the decree holder, it is open to the revision petitioner to file fresh Execution application under Order 21 Rule 97 of C.P.C.



C.R..P.(PD)(MD).No.1962 of 2022

WEB COPY

5. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

05.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Additional District Munsif Court,
Thanjavur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(PD)(MD).No.1962 of 2022

R.VIJAYAKUMAR,J.

ebsi

C.R.P(PD)(MD)No.1962 of 2022

05.03.2025