WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRP (MD). No.1637 of 2025
and CMP(MD) No.8530 of 2025

Thangapandi ... Petitioner

Vs

A-1998 Tirumangalam Co-Operative,
Housing Building Society,
Sonaiyar Street,
Jawahar Nagar,
Thirumangalam,
Through its President.. ... Respondent

PRAYER :- Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the order passed in EA No.02 of 2024 in EP No.106 of 2017 in OS No.551 of 1998 dated 15.04.2025 by the Subordinate Judge,Tirumangalam.

For Petitioner : **(*)Mr.K.K.Kannan**

ORDER

This Civil Revision Petition has been filed against the order in EA No.2/2024 in EP No.106 of 2017 in OS No.551/1998 dated 15.04.2025 on the file of the Subordinate Judge, Tirumangalam.

https://www.mhc.tn.gov.in/judis

WEB COPY

2. Since no adverse orders are going to be passed against the respondent, notice to the respondent is dispensed with.

3. The case of the petitioner is that the petitioner is the legal heir of Pechiammal, who was arrayed as 2nd defendant in the suit filed by the respondent in OS No.551/1998. The respondent Cooperative Society filed the suit for declaration and directing to surrender vacant possession of the suit property and to pay future mesne profits. Since the dispute was settled out of Court, the said suit came to be dismissed in the year 1999. Execution Petition was filed in the year 2011 before the II Additional Sub Court, Madurai, wherein, the petitioner was set exparte. Subsequently, to set aside the said exparte order, the petitioner filed an application, which came to be allowed on 24.10.2024. Subsequently the petitioner filed EA No. 2/2024 under Section 47 of the Code of Civil Procedure as the EP is inexecutable. The said application came to be dismissed. Aggrieved by the said dismissal, the petitioner is before this Court with this Civil Revision Petition.

4. The learned counsel for the petitioner would submit that the petitioner is one of the legal heir of the deceased Pechiammal/2nd defendant, against whom original suit was filed and the same was dismissed in the year 1999. The EP filed only in the year 2011, ie., after passing the final decree in the year 1999, ie., nearly

https://www.mhc.tn.gov.in/judis

WEB COPY

after 13 years. It is further contended that without obtaining any permission to implead the legal heirs of the deceased 2nd defendant, the petitioner and other legal heirs were impleaded in the execution proceedings, when the respondent/plaintiff society has become defunct and there is no President for the said respondent Society. He would further contend that on the date of passing the judgment and decree, the defendants Pechiammal and Andithevar were no more and when judgment and decree was passed against dead persons, it is not binding on the legal heirs of the deceased defendants including the petitioner herein. After coming to know these facts, the petitioner filed EA No.2/2024 under Section 47 of the CPC, which was dismissed. Hence, prays for interference.

5. I have considered the submissions of the learned counsel for the petitioner and also perused the materials available on record.

6. The facts are not in dispute. Admittedly, the respondent/plaintiff filed a suit in OS NO.551/1998 for the aforesaid relief. However the fact remains that the land is classified as a vacant land, which earlier stood in the name of Kayambu Asari, Rukmani Ammal, Ponniah Asari and N.Nagasamy Asari the then Trustees of Alagar Pathinettampadi Kovil. If the land is classified as vacant land, then the person, who is in occupation of the property, has to necessarily file applications before the

https://www.mhc.tn.gov.in/judis

WEB COPY

Settlement Officer claiming possession. Neither the said persons nor the defendants, who are the Kartha, has filed the applications. Before the trial Court, the defendants have not established the title and their occupation. Admittedly, the suit was decreed in the year 1999 and execution proceedings was also filed in the year 2011, which ended in the year 2012 and thereafter EA application was filed after a period of twelve years, which is not sustainable. Therefore, the trial Court has rightly dismissed the application, which need not be interfered with.

7. In view of the above, the Civil Revision Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

24.01.2025

(*)Corrected as per order of this Court dated 14/08/2025 made in CRP(MD)No. 1637 of 2025

Sd/-

Assistant Registrar (CS II)

// True Copy //

/08/2025

Sub Assistant Registrar

(CS- I/ II / III / IV)

RR

https://www.mhc.tn.gov.in/judis

WEB COPY

To:-

(*)To be substituted to the order already despatched on 12/08/2025

TO
1.The Subordinate Judge,Tirumangalam
2.The Section Officer,
VR Section
Madurai Bench of Madras High Court, Madurai.
+1 CC to M/s.K.K.KANNAN, Advocate (SR-33347[F] dated 11/06/2025)

CRP(MD) No.1637 of 2025
Date : 11/06/2025

JJ/08.09.2025 5P/5 C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

https://www.mhc.tn.gov.in/judis