



C.R.P.(MD)No.1833 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(NPD)(MD)No.1833 of 2025

and

C.M.P(MD)No.10121 of 2025

1.Petchiammal
2.Chidambaram
3.Selvi
4.Ravikumar

... Petitioners

Vs.

Shanmugam (Died)
1.Ganesh
2.Bagathsingh
3.Sugadev
4.Rajaguru
5.Ananjiyammal
6.Venkatachalapathy

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the docket order dated 09.04.2025 passed in E.P.No.6 of 2014 in O.S.No.75 of 2005 on the file of the Sub-Court, Sankarankovil.

For Petitioners : Mr.A.Mohamedhaneef

ORDER

This Civil Revision Petition is filed challenging the docket order dated 09.04.2025 made in E.P.No.6 of 2014 in O.S.No.75 of 2005 on the file of the Sub-Court, Sankarankovil.



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2. The learned counsel appearing for the petitioners would submit that the petitioners are the legal heirs of Late.Iayaperumal. One deceased Shanmugam the first respondent herein has filed a suit in O.S.No.75 of 2005, on the file of the Sub-Court, Sankarankovil for partition and separate possession. The learned Sub-Judge dismissed the suit by judgment and decree dated 28.04.2008. Aggrieved against the said judgment and decree, the deceased first respondent has filed an appeal in A.S.No.46 of 208, on the file of the Principal District Court, Tirunelveli. The said appeal has been allowed by judgment and decree dated 28.08.2009. Aggrieved against the said judgment and decree, the petitioners preferred the second appeal before this Court along with delay in representing C.M.P(MD)No.1073 of 2016 in S.A(MD)SR.No.856 of 2010. This Court has dismissed the said application. Aggrieved over the same, the petitioners filed SLP (C) No.30848 of 2016 before the Hon'ble Supreme Court of India. Subsequently, the said SLP (C) No.30848 of 2016 was also dismissed by the Hon'ble Supreme Court by an order dated 01.05.2023. Thereafter, the deceased Shanmugam moved the final decree application in I.A.No.61 of 2011 in O.S.No.75 of 2005. Pending the above final decree proceedings, the sixth respondent/petitioners' mother Viz., Shanmugavadivu passed away on 13.04.2012. The said fact was not brought to the notice of the Court. Therefore, the learned Sub-Judge by judgment and decree dated 31.01.2013



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passed the final decree against the deceased 6th respondent. In the meantime, the deceased Shanmugam moved an Execution Petition in E.P.No.6 of 2014 in O.S.No.75 of 2005 seeking for delivery of property. Pending the above execution proceedings, the seventh respondent herein also passed away. The respondents 2 to 5 suppressing the above said fact, filed a memo dated 09.04.2025 stating that the respondents 6 & 7 viz., Shanmugavadivu and Thirugnanasambandham were remained ex-parte in the execution proceedings and further they passed away pending the above execution proceedings seeking to dispense with the notice to the respondents 6 to 9. On the date of hearing on 09.04.2025 the petitioners have made an objections and requested time to file their reply to the memo. However, the learned Sub-Judge, without affording sufficient opportunity to make their objections through reply, mechanically recorded the memo and dispensed with the notice to the respondents 6 to 9. Challenging the same, the present Civil Revision Petition has been filed by the petitioners.

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

4. The facts of the present case are not disputed. Admittedly, the respondents are succeeding in the partition suit upto the level of the Supreme



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Court, thereafter, they filed an Execution Petition and in the Execution Petition, E.A., also filed. In the meantime, the trial Court dispensed with the appearance of the respondents 1,2,4 & 6/ respondents 6 to 9 herein in the execution petition. Aggrieved by the order of the dispensed with appearance of respondents 1,2,4 & 6/ respondents 6 to 9 herein, who are the legal heirs of one Ilayaperumal, have filed present Civil Revision Petition. The petitioners are not the aggrieved persons, hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2025

Internet : Yes / No
Index : Yes / No
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To

- 1.The Sub-Court, Sankarankovil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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