



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1761 of 2025

1.Pandi @ Appaysamy

2.Perumalsamy

3.Manikandan

...Petitioners

Vs.

Jakkammal

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the learned District Munsif, Theni, to take the petition on file in unnumbered E.A.S.R.No.826 of 2025 in E.P.No.13 of 2022 in O.S.No.83 of 2012 filed by the petitioners / respondents and set aside the order of return dated 17.06.2025.

For Petitioners : Mr.S.A.Ajmalkhan

ORDER

This Civil Revision Petition has been filed seeking a direction to the learned District Munsif, Theni, to take on file the unnumbered E.A.S.R.No.826 of 2025 in E.P.No.13 of 2022 in O.S.No.83 of 2012, filed by the petitioners/respondents, and to set aside the order of return dated 17.06.2025.



2. The learned counsel appearing for the petitioners would submit that the respondent / plaintiff filed a suit in O.S.No.83 of 2012 seeking the reliefs of declaration, permanent injunction, recovery of possession, and other consequential reliefs. The respondent pleaded that the suit properties are ancestral in nature and belonged to her father. However, she had not filed any valid document to prove her title to the said properties. The defendants, who are the brothers of the respondent/plaintiff, have been in continuous possession and enjoyment of the properties without any interference. Despite the same, the trial Court decreed the suit in favour of the respondent/plaintiff by judgment and decree dated 21.02.2014. Aggrieved by the said judgment and decree, the petitioners/defendants filed a First Appeal in A.S.No.25 of 2024 before the learned Sub Judge, Theni, and the same was dismissed on 23.11.2021. Thereafter, the petitioners filed a Second Appeal before this Court in S.A. (MD).No.194 of 2022, which is still pending adjudication. In the meantime, the respondent filed an Execution Petition in E.P.No.13 of 2022 before the learned District Munsif, Theni. The trial Court proceeded with the execution proceedings and ordered delivery of possession. Hence, the petitioners filed E.A.S.R.No.826 of 2025 before the same Court seeking to stay further execution proceedings. The said petition was presented on 17.06.2025. However, on the same day, the learned District Munsif returned the petition with the following endorsement:



"Admittedly, there is no stay of the EP proceedings or the decree. In such a case, the petition to stall the judicial proceedings is not maintainable, hence returned."

3. The learned counsel for the petitioners would further submit that the reason assigned by the trial Court for returning the Execution Application without numbering it is unsustainable. He would further submit that the trial Court ought to have numbered the petition and then considered its maintainability in accordance with law, after hearing both parties.

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

5. This Court has carefully considered the submissions made by the learned counsel for the petitioners and perused the materials available on record.

6. In the present case, the impugned action of the trial Court in returning the petition at the pre-numbering stage, instead of taking it on file and considering its maintainability through judicial adjudication, is not in consonance with the established principles of procedural fairness. Hence, the



returning the petition is not in accordance with law and the same is liable to be set aside.

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7. In view of the above, the Civil Revision Petition stands allowed and the order of the trial Court returning the Execution Application dated 17.06.2025 is set aside . The trial Court is directed to take the unnumbered E.A.S.R.No.826 of 2025 in E.P.No.13 of 2022 in O.S.No.83 of 2012 f on file and number the petition and proceed further in accordance with law, by affording sufficient opportunity to the respondent. No costs.

26.06.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The District Munsif, Theni.

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

Note : Registry is directed to return the original document after retaining the copy of the same in the Court record



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M.DHANDAPANI, J.

TSG

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