



CRP(MD). No.1835 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 05/08/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1835 of 2025 and
CMP(MD) No.10126 of 2025**

Arulmigu Sri Badrakaliyamman Kovil
represented by Ravi

... Petitioner

Vs

1. A.Chinnasamy

2. S.Rajagopal

3. The Commissioner,,
HR and CE Department, Chennai.

Respondent No.3 is impleaded vide
order dated 08.07.2025

... Respondents

PRAYER :- Civil Revision Petition filed under Article 227 of The
Constitution of India to strike off the E.P.No.109/2007 in O.S.No.
249/2000 on the file of I Additional Subordinate Judge, Trichy.



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For Petitioner : Mr.R.Baskaran
Senior counsel for R1
For Respondents : Mr.VR.Shanmuganathan for R1
for Mrs.B.Deepa
Mr.Ragatheeshkumar for R2
Mr.B.Saravanan for R3
Additional Government Pleader

ORDER

This Civil Revision Petition is filed to strike off the proceedings in E.P.No.109/2007 in O.S.No.249/2000 on the file of I Additional Subordinate Judge, Trichy.

2. The facts in nutshell are as follows:

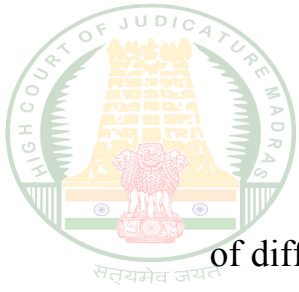
The petitioner is a third party to the proceedings in EP No. 109/2007 in OS No.249/2000. The suit was instituted by the 1st respondent/plaintiff as indigent person against one N.S.Rajagopal, who is the defendant, to direct him to pay the commission amount of Rs.2,64,496/- and to create a charge for the said amount in the B schedule property. The suit was decreed in favour of the plaintiff and charge was created over the 'B' schedule property. Pursuant to the said



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decree, the plaintiff filed execution petition in EP No.109/2007 for sale of the suit property, in which, sale was ordered. Against the said execution, one Ravichandran filed EA No.295/2011, which came to be dismissed. The suit was decreed on 16.08.2005 and the judgment and decree has become final as no appeal has been preferred against the said judgment. In the execution proceedings, several applications were filed. However, all those applications came to be dismissed. Challenging the execution proceedings and to strike off the same, the petitioner is before this Court.

3. The learned Senior Counsel appearing for the petitioner would submit that the property in question originally belongs to one N.R.Sundararaja Iyer and there was a partition among N.R.Sundararaja Iyer, N.S.Rajagopalan and N.S.Balasubramanian, who are the sons of the N.R.Sundararaja Iyer in the year 1954. As per the said partition, N.S.Rajagopalan alone is not the owner of the property. The defendant's father N.R.Sundararaja Iyer entered an registered joint development agreement with one M/s.Southern Construction on 21.07.1986. Thereafter, southern construction executed various sale deeds in favour

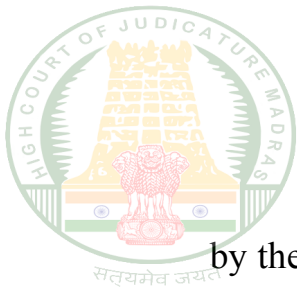


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of different persons and when there was an encumbrance created, the first respondent filed suit against the 2nd respondent and obtained decree.

Since the property is owned by N.R.Sundararaja Iyer, without impleading him, the first respondent/plaintiff has impleaded his son, who is not at all owner of the property and hence, such a decree is not binding. The petitioner is the Secretary of the petitioner Temple and the temple is situated from the year 1967 onwards and as on date, there was no disturbance and the petitioner in his own capacity has filed EA No. 109/2007 and the same was dismissed on 28.09.2016 against which, the petitioner has not preferred any appeal.

3.1. Subsequently the first respondent filed EA No.1/2021 for removal of construction made by several persons including the petitioner and the said EA was allowed in favour of the first respondent/plaintiff on 06.03.2025, against which one of the third party filed AS No.72/2025 and the same was dismissed on 19.06.2025. However, the present petition is filed solely on the ground that when a person, who is not the owner of the property and obtaining a decree against the defendants and hence, the decree is not binding on the petitioner and the decree obtained



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by the first respondent is a fraudulent and collusive one and hence, prays
for interference.

4. Per contra, the learned counsel for the first respondent/plaintiff would submit that admittedly, the petitioner is neither an interested person nor owner of the property and the petitioner has no title over the suit property. Admittedly, the title is owned by one N.R.Sundararaja Iyer and N.R.Sundararaja Iyer had two sons, namely, N.S.Rajagopalan and N.S.Balasubramanian. N.S.Sundararaja Iyer died on 24.12.1996. N.S.Balasubramanian died intestate without any legal heirs and thereafter, the first defendant, namely, N.S.Rajagopalan alone is the owner of the property, with whom, the first respondent/plaintiff entered into an agreement for selling one of the property for which the defendant agreed to pay a commission amount of Rs.2,64,496/-. However, the said amount was not paid. The said N.S.Rajagopalan has executed a declaration deed in favour of the plaintiff on 23.10.1998. Since the said commission amount was not paid and as per the declaration deed executed, the plaintiff instituted a suit and the same was decreed. The learned counsel would therefore submit that the aggrieved person is only

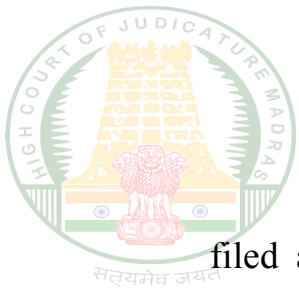


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the 2nd respondent and not the person, who purchased the property from southern construction or any other persons. Apart from that, the petitioner is neither the interested person nor the aggrieved person and he is the one, who is unable to succeed neither before the lower Court nor before this Court and hence, the Civil Revision Petition is liable to be dismissed as not maintainable.

5. I have considered the rival submissions and perused the materials available on record.

6. A perusal of the records would go to show that the petitioner is a third party. The suit property pertains to S.No.674/1 & 674/2/ B Schedule property. The petitioner temple is situated in the said survey number. The first respondent/plaintiff entered into an agreement for selling one of the property of the defendant, for which, the defendant agreed to pay a commission amount of Rs.2,64,496/- and a declaration deed has also been executed in favour of the plaintiff. Since the said commission was not paid, as per the declaration deed executed by N.S.Rajagopalan in favour of the first respondent, the first respondent



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filed a suit to direct the defendant to pay the commission amount of Rs.2,64,496/- and to create a charge for the said amount in the 'B' schedule property. The said suit was decreed in his favour. Pursuant to the judgment and decree, the decree holder has filed execution petition in EP No.109/2007 and the same was allowed and sale was ordered. However, the petitioner, who is a third party and who has no title whatsoever in the suit property, has filed this Civil Revision Petition on the ground that when the defendant is not the owner of the property and his father is the owner of the suit property, the suit was filed against the person, who is not at all interested and vest with the property, and hence, the decree granted is not binding on him. It is to be noted that such a plea ought to have been taken by the person aggrieved or by the defendant, however, the defendant has not taken any such plea and filed any appeal challenging the said judgment and decree. However, the petitioner, who is a third party, has filed this petition to strike off the proceedings in EP No.109/2007, which is not maintainable. It is also to be noted that neither before the Court below nor before this Court, the title is established and hence, the petitioner has no locus to challenge the execution proceedings. When the title was not established and in the



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absence of any right or title, filing the Civil Revision Petition is impermissible one. Accordingly, the Civil Revision Petition is dismissed.

No costs. Consequently connected Miscellaneous Petition is closed.

05.08.2025

NCC : Yes/No
Index : Yes/No
RR

TO

- 1.The I Additional Subordinate Judge, Trichy.
- 2.VR Section
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
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