



C.R.P.(MD)No.1982 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1982 of 2025

and

C.M.P(MD)No.11406 of 2025

1.Radhika
2.Lakshmi
3.Vandargulazhi
4.Saroja @ Radha
5.Radha

... Petitioners

Vs.

Kandappan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in E.A.No.5 of 2025 in E.P.No.15 of 2021 in O.S.No.49 of 2012 dated 29.08.2024 on the file of the District Munsif Court, Tiruchendur, Thoothukudi District.

For Petitioner : Mr.A.D.Ganeshamoorthi

ORDER

This Civil Revision Petition is filed seeking to set aside the fair and decretal order passed in E.A.No.5 of 2025 in E.P.No.15 of 2021 in O.S.No.49 of 2012 dated 29.08.2024 on the file of the District Munsif Court, Tiruchendur, Thoothukudi District.



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2. The case of the petitioner is that the respondent/plaintiff filed a suit in O.S.No.49 of 2012, on the file of the District Munsif Court, Tiruchendur for declaration and for mandatory injunction. The petitioners are the defendants in the suit. The trial Court dismissed the suit on 04.10.2017. As against which, the respondent/plaintiff filed a first appeal in A.S.No.450 of 2017, on the file of the Sub-Court, Tiruchendur. The said appeal was allowed on 01.09.2021. Aggrieved against the reversal finding rendered by the lower appellate Court, the petitioners filed second appeal before this Court in S.A(MD)No.235 of 2022. Prior to filing of the second appeal, the respondent/plaintiff filed E.P.No. 15 of 2021 and sought for execution of the decree and judgment in O.S.No.49 of 2012, dated 04.10.2017. An ex parte order was passed in the E.P., As against the ex-parte order, the petitioner filed E.A.No.5 of 2025 to set aside the ex-parte order and the same was dismissed. Challenging the said dismissal order, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner would submit that the petitioners are the defendants in the suit and the respondent is the plaintiff. The trial Court dismissed the suit on 04.10.2017. As against which, the respondent/plaintiff filed a first appeal in A.S.No.450 of 2017, on the file of the Sub-Court, Tiruchendur. The said appeal was allowed on 01.09.2021.



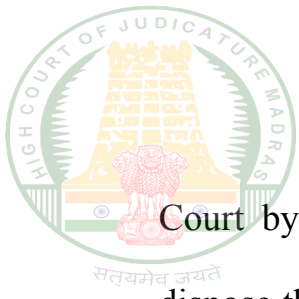
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Aggrieved against the reversal finding rendered by the lower appellate Court, the petitioners filed second appeal before this Court in S.A(MD)No.235 of 2022. This Court granted an interim stay on 15.04.2025 till 03.04.2025. Thereafter, interim order was not extended. Taking advantage of the non-extension of the interim order, the trial Court proceeded the matter by dismissing the petition filed by the petitioners to set aside the ex-parte order and the same is not sustainable one and prays for allowing the Civil Revision Petition.

4. The learned counsel for the petitioners further submitted that this Court may grant interim stay in this matter till the disposal of the second appeal pending before this Court.

5. Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.

6. On perusal of the entire records reveals that admittedly, the petitioners filed second appeal before this Court and in the second appeal, this Court in para -2 of the order has also observed with regard to the disposal of the E.P.No. 15 of 2021 and thereby, granted interim stay till 30.04.2025. Pending second appeal, the respondent/plaintiff filed C.R.P(MD)No.2860 of 2024 and this



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Court by an order dated 15.11.2024 issued a direction to the trial Court to dispose the E.P.No.15 of 2021 within a period of three months from the date of receipt of a copy of the order and thereby, the trial Court disposed the execution petition. On perusal of the execution petition order it is seen that despite several opportunities were given to the petitioner, the petitioners have not filed any counter and hence, ordered the execution petition. In the absence of any restrained order from this Court, the trial Court has rightly dismissed the E.A.No.5 of 2025. The learned Judge exercised his power conferred on him and there is no illegality or irregularity warranting interference by this Court.

7. The learned counsel for the petitioners would submit that for execution of the order, the trial Court posted the matter on 08.8.2025.

8. In view of the above, liberty is granted to the petitioner to mention before this Court in the second appeal in S.A(MD)No.235 of 2022 with regard to extension of an interim order. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2025

Index : Yes/No
Internet : Yes / No
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To

- 1.The District Munsif Court,
Tiruchendur, Thoothukudi District.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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