



C.R.P.(MD)No.2073 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2073 of 2024
and C.M.P.(MD).No.11820 of 2024

Palaniammal ... Petitioner/Appellant/Respondent/1st Defendant

Vs.

Surumbayee Ammal (Died)

1.M.Selvaraj ... 1st Respondent/2nd Respondent/2nd Respondent/
L.R of the deceased D.H

2.Corporation of Tiruchirappalli

rep. by its Commissioner,

(Ponmalai Zone), Corporation Office,

Trichy – 1. ... 2nd Respondent/3rd Respondent/3rd Respondent/
2nd Respondent

3.The Junior Engineer,

Operation and Maintenance Junction,

TNEB, Collector Office Road,

Tiruchirappalli – 1.

... 3rd Respondent/4th Respondent/4th Respondent/
3rd Respondent

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the Docket order dated 08.08.2024 passed in Unnumbered E.A.No... of 2024 in E.P.No.270 of 2016 in O.S.No.546 of 2005 on the file of the learned I Additional District Munsif Court, Tiruchirappalli.



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For Petitioner : Mr.N.Narayanan

For Respondents : Mr.K.S.Muthu for R1
Mr.K.R.Kishore Ram for
M/s.R.B.Law Associates for R2

ORDER

This civil revision petition has been filed to set aside the Docket order dated 08.08.2024 passed in Unnumbered E.A.No... of 2024 in E.P.No.270 of 2016 in O.S.No.546 of 2005 on the file of the learned I Additional District Munsif Court, Tiruchirappalli.

2.The facts in brief:

Suit in O.S.No.546 of 2005 was filed by one Surumbayee Ammal against the revision petitioner namely Palaniammal seeking the relief of declaration in respect of 'B' schedule property and for possession, Mandatory Injunction and etc. relief. That was decreed. To declare that the decree passed in the above said suit is un executable, a petition was filed, on the ground that Surumbayee Ammal filed the suit on false ground. The revision petitioner was bequeathed with the property by the settlement deed, dated 25.07.1989 by her mother. After that he is in enjoyment of the property without any disturbances. Before the trial



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Court in O.S.No.546 of 2005, he could not file his written statement setting out the above said facts. In the complaint filed by the Surumbayee Ammal 'A' schedule was shown as one portion and another portion as 'B' schedule. But, 'B' schedule is separate property. It does not form part of 'A' schedule. The settlement deed covers 'B' schedule property. The settlement deed pleaded by the plaintiff is not related to the 'B' schedule now. In pursuance of the decree, delivery was ordered. So the petition is filed to identify and demarcate the suit property with the help of the qualified surveyor. That application came to be returned by the Execution Court with some endorsement, which reads that the amin did not make any endorsement that police protection is required for identifying the property. Further amin has not stated that property could not be identified. So the petition is a pre-matured one.

3. Against this returned order, this revision is preferred.

4. Record of proceedings shows that pending the revision petition, Commissioner was appointed to identify the property as per the decree. And copy of the Commissioner Report is also placed before this Court.



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The contents of the Commissioner report is a matter for consideration by the Execution Court. So I am not going in to the contents of the Commissioner report.

5.Since the revision has been preferred against the order of return, I am of the considered view that deciding the maintainability of the petition even before numbering, on the administrative side may not be proper, more specifically, when identification of the suit property is the matter of issue. This Court has taken steps to resolve the issue by appointing a Commissioner.

6.Accordingly, the matter is remitted back to the trial Court. The order of return is set aside and Execution Court is directed to process the petition and decide the same on the judicial side on its own merits, by taking into account the commissioner's report filed before this Court.

7.With the above said direction, the civil revision petition stands allowed. Registry is directed to send the copy of the commissioner's report to the Execution Court along with the order copy. Consequently,



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connected miscellaneous petition is closed. No costs.

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09.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

- 1.The I Additional District Munsif, Tiruchirappalli.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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