



C.R.P(MD)No.1981 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.01.2025

Pronounced on : 21.02.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1981 of 2024

and

C.M.P(MD)No.11232 of 2024

T.Roselet (Died)

T.Stella

... Petitioner / 1st Petitioner /
3rd defendant

Vs

1.Sounder Rajam

2.J.Rajasree

... Respondents 1 & 2 / Respondents 1 & 2/
Petitioners / Plaintiffs

3.T.Mary

4.T.Violet Baby

5.T.Mercibai

6.T.Thanga Jones

... Respondents 3 to 6 / Petitioners 1,3,4 &5 /
Respondents 1,3,4 &5 / Defendants 1,2,4 &5

PRAYER : This Civil Revision petition is filed under Section 115 of Civil Procedure Code to call for the records to the fair and decreetal order passed in E.P.No.36 of 2022 in O.S.No.187 of 2011 connected



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with O.S.No.93 of 2011 dated 14.06.2024 on the file of the learned District Munsif, Eraniel and set aside the same.

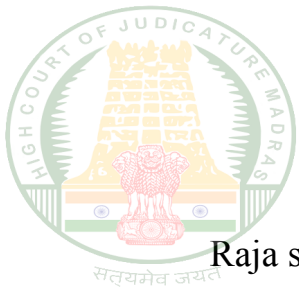
For Petitioner : Mr.D.Srinivasaragavan

For R1 & R2 : Mr.M.P.Senthil

ORDER

This Civil Revision petition is filed to call for the records to the fair and decreetal order passed in E.P.No.36 of 2022 in O.S.No.187 of 2011 connected with O.S.No.93 of 2011 dated 14.06.2024 on the file of the learned District Munsif, Eraniel and set aside the same.

2. The suit in O.S.No.93 of 2011 and O.S.No.187/11 were tried jointly by the learned District Munsif, Eraniel. The suit in O.S.No.93 of 2011 was filed by the deceased Roselet and O.S.No.187 of 2011 by Sounder Rajan, Raja Sree against the deceased Roselet. By judgment and decree dated 26.03.2021, the suit A schedule property was declared to be the absolute property of Sounder Rajan. B schedule was declared to be the property of the second plaintiff / Raja sree. The defendant was directed to deliver the vacant possession to the second plaintiff namely



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Raja sree within two months. The decree was put in execution in E.P.No. 36 of 2021, wherein delivery of possession was sought. The revision petitioner entered appearance and filed her counter. But the execution Court without noticing the filing of counter by the revision petitioner, ordered delivery, as if no counter was filed by the revision petitioner. Against that this Civil Revision Petition is preferred.

3. Heard both sides.

4. At the time of hearing, the very same argument was advanced by the revision petitioner stating that the execution Court did not notice the filing of the counter and its availability on the file. The order itself is *per se* illegal. According to the petitioner, the matter may be remitted back to the execution Court because of the mistake committed by the execution Court, for deciding the issue afresh.

5. Per contra, learned counsel for the respondents would submit that even if the counter is taken into account by this Court, it can be find that absolutely no valid ground is available.



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5. On that account, the revision petitioner was directed to advance arguments. The revision petitioner would submit that if the matter is remanded back one more opportunity may be available to her to challenge the decree.

6. But I am unable to agree with this line of argument. Now we will go to the counter filed by the revision petitioner to see whether any valid objection is raised by them. In the counter affidavit it has been stated that she is having no other property except the petition mentioned property; She is aged about 63 years; No decree was passed against her for recovery of possession.

7. But learned counsel for the respondents has pointed out that in the decreetal portion as mentioned above, the decree clearly shows that delivery was ordered. So the contentions mentioned in the counter is devoid of merits.



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8. Even otherwise, when we see the record of proceedings, it appears that delivery was ordered by the execution Court. At the time of effecting the delivery, this revision petitioner locked the door and prevented the Amin from taking delivery. This conduct itself shows that she wants to drag on the matter endlessly. So I find that there is no reason to interfere with the order of the execution Court, though for different reasons.

9. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

21-02-2025

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

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G.ILANGOVAN, J.

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To

- 1.The District Munsif, Eraniel.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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