



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2169 of 2022

and C.M.P.(MD).No.10076 of 2022

Papathi

...Petitioner

Vs.

1.Ayyasamy

2.Thiruppali

3.Subban

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records of the fair and decreetal order dated 06.06.2022 made in E.A.No.6 of 2017 in E.P.No.10 of 2014 in O.S.No.101 of 2006 on the file of the District Munsif Court, Keeranur and allow the same.

For Petitioner : Mr.R.Paranjothi

For Respondents : Mr.K.P.Narayanakumar

ORDER

This petition has been filed to set aside the fair and decreetal order dated 06.06.2022 made in E.A.No.6 of 2017 in E.P.No.10 of 2014 in O.S.No.101 of 2006 on the file of the District Munsif Court, Keeranur.



2. The learned counsel appearing for the petitioner submitted that the petitioner is a third party to the suit. He filed E.A.No.6 of 2017 in E.P.No.10 of 2014 in O.S.No.101 of 2006 challenging the execution proceedings. According to the petitioner that the plaint schedule property originally belonged to one Thiruppali and his son Subban. The legal heirs of the said Thiruppali and the legal heirs of Rengasamy, who is the brother of the above said Thiruppali, executed a Power of Attorney in favour of one Sudhagar registered at the Viralimalai Sub-Registrar's Office (Document No. 10 of 2009). Based on the said power of attorney, Sudhagar sold the property to the petitioner vide sale deed, Document No. 2941 of 2011 from one Ayyachamy. The first respondent / plaintiff (decree holder) allegedly created a fictitious sale agreement and filed O.S.No.101 of 2006 against Thiruppali and Subban for specific performance. An exparte decree was passed and on the strength of the exparte decree, the first respondent took possession of the property from the petitioner. The petitioner contends that the trial Court erred in dismissing E.A.No.6 of 2017, as her purchase was prior to the execution proceedings and she had independent rights over the property.

3. Per contra, the learned counsel appearing for the respondents submitted that the first respondent filed O.S.No.101 of 2006 for specific performance against the second and third respondents. The suit was decreed exparte on 27.11.2006. Thereafter, the first respondent deposited the balance sale



consideration. Since the defendants in the suit failed to execute the sale deed, the first respondent filed E.P.No.10 of 2014 pursuant to which the Court executed the sale deed vide Document No. 1947 of 2013 in favour of the first respondent. The second and third respondents earlier filed I.A.No.586 of 2014 to set aside the ex parte decree, which was dismissed. Their challenge in C.R.P. (MD) No.38 of 2017 before this Court was also dismissed on 02.03.2017. After losing in all forums, the second and third respondents set up the present petitioner to file E.A.No.6 of 2017 under Section 47 CPC. The petitioner's alleged purchase in 2011 was long after the exparte decree of 2006 and is a fraudulent transaction intended to defeat the decree holder's rights. The trial Court has rightly dismissed E.A.No.6 of 2017, which need not to be interfered with. Accordingly, he prays for dismissal of the petition.

4. It is an admitted position that the exparte decree in O.S.No.101 of 2006 was passed on 27.11.2006 directing specific performance in favour of the first respondent. This decree attained finality when the defendants' attempt to set it aside in I.A.No.586 of 2014 and the subsequent revision in C.R.P.(MD) No.38 of 2017 were dismissed. The petitioner's claim of purchase under Document No.2941 of 2011 is subsequent to the exparte decree. Therefore, the petitioner, claiming through the judgment debtors after the decree, cannot resist execution. The trial Court, upon considering these aspects, correctly dismissed E.A.No.6 of 2017 as not maintainable.



5. In view of the above discussion, this Court finds no infirmity or illegality in the impugned order dated 06.06.2022 passed by the learned District Munsif Court, Keeranur in E.A.No.6 of 2017 in E.P.No.10 of 2014 in O.S.No. 101 of 2006.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

06.08.2025

Internet:Yes/No

Index:Yes/No

TSG

To

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



WEB COPY

C.R.P.(MD)No.2169 of 2



M.DHANDAPANI, J.

TSG

C.R.P.(MD)No.2169 of 2022

06.08.2025