



C.R.P(NPD)(MD)No.2397 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.2397 of 2024

G.Saravanan

... Petitioner

Vs

K.Gopalakrishnan

... Respondent

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the order dated 03.07.2024 made in E.A.No.1 of 2020 in E.P.No.34 of 2015 in O.S.No.83 of 2013 on the file of the Principal District Munsif Court, at Sankarankovil, Tenkasi District and revise the same.

For petitioner : Mr.G.Saravanan
Party-in-Person

For Respondent : Mr.B.Rajesh Saravanan



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ORDER

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This Civil Revision Petition is filed against the order dated 03.07.2024 made in E.A.No.1 of 2020 in E.P.No.34 of 2015 in O.S.No.83 of 2013 on the file of the Principal District Munsif Court, at Sankarankovil, Tenkasi District and revise the same.

2. The facts in brief:

Suit in O.S.No.83 of 2013 was filed by the respondent herein against the revision petitioner for recovery of possession and costs before the Additional District Munsif Court, Sankarankovil. Suit was decreed as prayed for with costs, by the judgment and decree dated 19.12.2014. To execute the decree and judgment, Execution Petition in E.P.No.34 of 2015 was filed by the decree holder. By an order dated 21.09.2016, delivery was ordered. At the time of taking the delivery, the revision petitioner was not present. The movable properties which were available in the property were handed over to the decree holder by Ameen on 27.12.2016. At the time of delivery, the Ameen took inventory of the properties. Later E.A.No.1 of 2020 was filed by the decree holder



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seeking permission of the Court to handover the articles delivered by the Ameen to the Court for further proceedings. The revision petitioner filed an objection stating that apart from the articles mentioned in Ameen inventory, several documents, cash and other articles were available in the premise; those things were omitted to be mentioned in the Ameen inventory and they are also missing. Apart from that he has filed the counter affidavit, setting out the merits of the main subject.

2.1. The Execution Court, after hearing both sides, allowed the petition, by an order dated 15.12.2021, permitting the decree holder to handover the articles to the Head Ministerial Officer and the revision petitioner was directed to receive the articles in the presence of the Head Ministerial officer on or before 06.01.2022. Then the case was adjourned to various dates, since the revision petitioner filed this revision before this Court. Finally, when the revision petitioner refused to receive the articles, E.A.No.2 of 2022 was filed by the decree holder for condonation of delay in producing the articles. On 15.09.2022, the revision petitioner refused to receive the articles. Finally, an order of sale of movable properties was passed by permitting the revision



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petitioner to get the money back from the Court after deposit. Against which, this Revision Petition is preferred before this Court.

3. Heard both sides.

4. The records were called from the Execution Court and the records were perused.

5. From the narration of the facts stated in the preamble portion, the main objection of the revision petitioner is that on the date of delivery, only some of the articles were available and most of the articles were found missing, which were available in the premises. In respect of the missing articles, he made objections. According to him, unless the missing articles mentioned by him are produced, he cannot receive the articles now produced.

6. Apart from that, as mentioned above, he made several facts which are not relevant for considering this issue. Those matters ought to have been raised before the trial Court at the time of trial. The revision



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petitioner was represented by an advocate before the trial Court. But according to him, he was not examined by the trial Court and there is no proper instructions from his advocate. All those matters cannot be taken into consideration at this stage. He ought to have filed appeal against the judgment and decree. At the very belated stage, he has making all sort of objections which cannot be taken into account by this Court.

7. The Court Ameen took inventory of the articles found in the premises. Natural presumption is available in favour of that Ameen records, since it was prepared in the ordinary course of official duty. Without any valid ground, the revision petitioner cannot make objection to the inventory preferred by the Ameen. In fact, he was not available when the delivery was effected. Therefore, no finding can be recorded by this Court with regard to the non-availability of articles now mentioned by the revision petitioner. It is to be decided in an appropriate proceedings to be initiated by the revision petitioner.

8. Therefore, the objection raised by the revision petitioner is not sustainable at this stage. The petitioner is duty bound to receive the



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articles now produced as ordered by the Execution Court. If, again, the revision petitioner refuses to receive the articles, then the order of the Execution Court to auction the articles will be effected.

9. Final opportunity is given to the revision petitioner to receive the articles in the presence of the Head Ministerial Officer within a month from today, failing which the order of the Execution Court will take effect as stated above. Regarding the disputed items, the petitioner can initiate appropriate proceedings to ventilate his grievance.

10. With the above observation, this Civil Writ Petition is dismissed. No costs.

22.01.2025

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



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To

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



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G.ILANGO VAN, J.

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