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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.938 of 2025
and
C.M.P(MD)Nos.5016 & 5017 of 2025

1.Muthusamy Udaiyar
2.Chinnadurai Udaiyar

...Petitioners/3rd Party/
3rd Party/3rd Party

Vs.

1.Dhamodaran

...1st Respondent/Petitioner/Decree Holder/Plaintiff

2.Karuppaiah Udaiyar

...2nd Respondent/Respondent/Judgment Debtor/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Fair and Decretal order made in E.A.No.139 of 2015 in E.P.No.43 of 2015 in O.S.No.253 of 2013 on the file of the learned District Munsif cum Judicial Magistrate Court, Kandarovakottai, dated 15.10.2022, and to set aside the same by allowing this Civil Revision Petition.

For Petitioners : M/s.V.Muthukamatchi

For Respondents : Mr.S.I.Muthaiah for R1

* * * * *



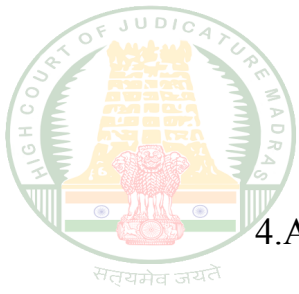
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ORDER

The third parties to O.S.No.253 of 2013, on the file of the District Munsif Court, Kandarakottai, have filed the present revision petition challenging the order passed by the Executing Court in E.A.No.139 of 2015, wherein the executing Court has directed for disconnection of electricity service connection for the purposes of effecting demolition and delivery of the possession of the property.

2.The first respondent in the revision petition has filed the above said suit for the relief of recovery of possession as against the second respondent herein. The suit was decreed on 12.01.2015. The executing Court has ordered delivery on 22.06.2015 in E.A.No.141 of 2015. Since the property was kept closed, the decree holder has filed I.A.Nos.126 & 127 of 2015, to break open and for police protection. These applications were also allowed.

3.The decree holder has filed E.A.No.139 of 2015, to disconnect the electricity service connection, so that the demolition of the property could be effected and possession can be taken. This application has been allowed. Challenging the same, the present revision petition has been filed.

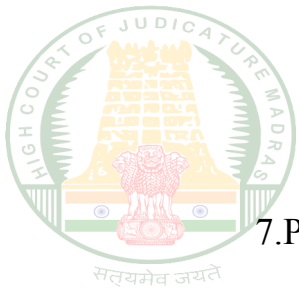


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4. According to the learned Counsel appearing for the revision petitioners, they are in possession of the property after being permitted by the judgment debtor to be in possession of the property. They have not been impleaded as the parties to the suit. Therefore, they have filed E.A.No.1 of 2019 under Section 21 Rule 99 of C.P.C. obstructing the delivery. The said application was dismissed by the trial Court on 13.04.2022. Challenging the same, the obstructors have filed in C.M.A.No.4 of 2022. Pending C.M.A.No.4 of 2022, the order of delivery was sought to be effected. This Court in C.R.P.(MD)No.2282 of 2022 (filed against the E.A.No.141 of 2015) has directed the order of delivery to be kept in abeyance till the disposal of C.M.A.No.4 of 2022.

5. It is brought to the notice of the Court that C.M.A.No.4 of 2022, has been dismissed by the learned Principal District Court, Pudukottai, on 24.03.2025, on the ground that miscellaneous appeal is not maintainable and only a regular appeal has to be filed.

6. According to the learned Counsel appearing for the revision petitioners, some time is required to file a regular appeal and therefore, delivery order shall be kept in abeyance till the disposal of the regular appeal.



7.Per contra, the learned Counsel appearing for the decree holders/respondents had submitted that delivery was ordered 10 years back and so far they are not able to take delivery of the property despite an order of break open and police protection. He further submitted that the disconnection of the electricity service connection was sought for only for the safety of the persons who are involved in the demolition work. Therefore, such superfluous order cannot be challenged by way of the revision petition.

8.I have considered the submissions made on either side and perused the materials available on record.

9.As far as, the present revision petition is concerned, the order of delivery, the order of break open and police protection are not under challenge. The only order that is under challenge in the present revision petition is a direction given to the Electricity Board to disconnect the service connection to enable the persons to demolish the buildings.

10.In such circumstances, this Court finds that the present revision petition is not maintainable and therefore, the same is liable to be dismissed. It is open to the revision petitioners to approach the competent Court by filing a regular appeal as against the order passed in C.M.A.No.4 of 2022.



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11. With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

27.03.2025

Internet: Yes/No
Index: Yes/No
RJR

To

The learned District Munsif cum Judicial Magistrate,
Kandarvakottai.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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