



C.R.P(MD)No.2477 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(MD)No.2477 of 2024

P.Shanmugam

... Petitioner / 1st Plaintiff

Vs

1.Vellaisamy

2.Nagammal

3.Murugan

4.Kullammal

5.Ramuthai

6.Raju

7.Palanisamy

... 1 to 7 Respondents / Defendants

Prayer : This Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the order and decree dated 12.07.2024 made in E.P.No.15 of 2023 in O.S.No.184 of 2004 on the file of the Principal District Munsif Court, Vedasanthur, Dindigul District and allow this Civil Revision Petition.

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C.R.P(MD)No.2477 of 2024

For Petitioner : Mr.G.Gomathisankar

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed to set aside the order and decree dated 12.07.2024 made in E.P.No.15 of 2023 in O.S.No.184 of 2004 on the file of the Principal District Munsif Court, Vedasanthur, Dindigul District.

2. The suit in O.S.No.184 of 2004 was filed by the revision petitioner herein seeking the relief of permanent injunction, mandatory injunction, for removing the obstruction and for cost. The suit was decreed as prayed for with costs and for mandatory injunction, one month time was granted. To execute the decree and judgment, E.P.No.15 of 2023 was filed by this Court, revision petitioner with the following submissions:

The portion marked as X and Y in the plaint plan is under enjoyment and possession of the revision petitioner. But they caused disturbance to his possession and enjoyment by disobeying the decree



C.R.P(MD)No.2477 of 2024

and judgment passed by this Court so they must be punished for the contempt of the decree. The respondent filed counter stating that no particulars are available in the petition as to the date and time of the alleged violations. Before filing the petition, no notice was issued to them. After hearing both sides, the execution Court dismissed the petition finding that the ingredients of the willful disobedience was not properly established. So the petition was dismissed. Against which this revision is preferred.

3. After hearing, the learned counsel for the petitioner, I find that no evidence was recorded by the execution Court before dismissing the petition. When the violation is mentioned by the revision petitioner, the revision petitioner ought to have let any evidence to show the cause of action namely the violations alleged to have been committed by the respondent herein, the date, time and in what manner violation was committed must have been brought on record by way of the evidence. It appears that both the parties have missed evidence in this regard.



C.R.P(MD)No.2477 of 2024

WEB COPY

4. On the sole ground without going into other aspects and the merits of the matter, the matter is remitted back to the execution Court. The Execution Court may permit the parties to lead evidence to substantiate their claim and dispose the same on its own merits.

5. With this above direction, this Civil Revision Petition is allowed. The judgment and decree passed in E.P.No.15 of 2023 in O.S.No.184 of 2004 dated 12.07.2024 made on the file of the Principal District Munsif Court, Vedasanthur, Dindigul District, is set aside and the matter is remitted back to the file of learned Principal District Munsif, Vedasanthur, Dindigul District, for fresh consideration. No costs.

22.01.2025

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

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C.R.P(MD)No.2477 of 2024

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



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C.R.P(MD)No.2477 of 2024

G.ILANGO VAN, J.

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ORDER
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