



C.R.P(NPD)(MD)No.39 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(NPD)(MD)No.39 of 2025
and C.M.P.(MD)No.204 of 2025

Kaliaperumal (Died)

Raja alias Rajendran

... Petitioner

Vs

Saroja Ammal (Died)

1.R.Mohan

2.R.Manoharan

3.R.Sampathkumar

4.Trichirappalli City Corporation,
Represented by its Execution Authority,
The Commissioner, Srirangam Zone,
Trichy – 6.

5.State of Tamil Nadu, Represented by
The District Collector, Trichirappalli.

... Respondents

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., against the order made in E.P.No.90 of 2021 in O.S.No.623 of 2003 on the file of 1st Additional District Munsiff, Trichy, dated 13.08.2024.



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For Petitioner : Mr.R.Sundar

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate for R5

ORDER

This Civil Revision Petition is filed against the order made in E.P.No.90 of 2021 in O.S.No.623 of 2003 on the file of 1st Additional District Munsiff, Trichy, dated 13.08.2024.

2. The suit in O.S.No.623 of 2003 was filed by the respondent herein seeking the relief of mandatory injunction to remove the construction put in item - 2 and for permanent injunction. The suit was decreed as prayed for with cost. Against which an appeal was preferred by the revision petitioner in A.S.No.271 of 2012 on the file of the I Additional Subordinate Judge, Trichy. That came to be dismissed for default on 16.11.2017. Now restoration petition is filed and stated to be pending. In the meantime, E.P.No.90 of 2021 was taken by the decree holder for executing the decree. That was resisted by the revision petitioner herein on various grounds. Those grounds were rejected by the execution Court and finally ordered delivery. Against which this



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Civil Revision Petition is preferred, on the ground that restoration application was pending on the file of the I Additional Subordinate Judge, Trichy and without noticing the same, delivery order was passed by the Execution Court.

3. Heard both sides.

4. This Court is completely at loss to understand the grievance expressed by the revision petitioner. They have filed A.S.No.271/2012, he did not prosecute the same. So the appeal was dismissed on 16.11.2017 for default. It appears that he has filed an application to restore the appeal. The interlocutory application is not mentioned by the revision petitioner but in the affidavit which has been stated that I.A.SR.No.1472 of 2022 is filed to condone the delay of 1807 days. Even after two years, it appears that there is no progress in the petition. So there is no impediment for the Execution Court to proceed with the execution of decree. That order cannot be found fault by the petitioner. He ought to have prosecuted the appeal in a proper manner. He failed. Even it is seen that he has not prosecute the I.A.SR.No.1472/22 even after lapse of two years. Unless there is a stay order from the appellate



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Court, the execution cannot be stalled. I find absolutely no reason to interfere with the order passed by the 1st Additional District Munsiff, Trichy, in E.P.No.90 of 2021 in O.S.No.623 of 2003.

5. After passing this order, learned counsel for the revision petitioner requested the Court to pass an order directing the I Additional Subordinate Judge, Trichy, to expedite the enquiry process in the unnumbered I.A. Without knowing the correct number of I.A., no direction can be passed. It is for the revision petitioner to approach the concerned Court and prosecute the matter in accordance with law. Accordingly, this Civil Revision Petition is liable to be dismissed even at the admission stage.

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

08.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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1. 1st Additional District Munsiff, Trichy.
2. The Execution Authority,
Trichirappalli City Corporation,
The Commissioner, Srirangam Zone,
Trichy – 6.
3. The District Collector,
State of Tamil Nadu, Trichirappalli.
4. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

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