

C.R..P.(MD).No.577 of 2007 & 1844 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(MD)Nos.577 of 2007 and 1844 of 2017
and
C.M.P.(MD)No.9720 of 2017

C.R.P.(MD)No.577 of 2007:

Balasubramanian

...Petitioners

Vs.

1.Kalanjiam
2.Chelliammal
3.Anthony
4.Karuppayee
5.Periaganapathy
6.Chinnaganapathy
7.Guruvammal
8.Karuppayee
9.Chellathai
10.Lakshmi
11.Kasirajan

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and executable orders in E.P.No.5 of 2005 dated 08.02.2007 passed by the Principal District Munsif Court, Sankarankoil in O.S.No.5 of 1996 on the file of the Principal District Munsif Court, Sankarankoil.



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For Petitioner : Mr.N.GA.Nataraj
For R1 : Mr.D.Balamurugapandi
For R2 to R-11 : No Appearance

C.R.P.(MD)No.1844 of 2017:

Chinna Ganapathy

...Petitioner

Vs.

Kalanjiam

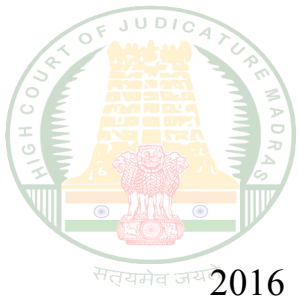
... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order passed in E.A.No. 165 of 2016 in E.P.No.2 of 2005 in O.S.No.5 of 1996 on the file of the Principal District Munsif, Sankarankoil, Tirunelveli dated 07.03.2017.

For Petitioner : Mr.A.Ashok Kumar

COMMON ORDER

The petitioner in C.R.P.(MD)No.577 of 2007 is the fourth defendant in the suit. The petitioners in C.R.P.(MD)No.1844 of 2017 is the legal heir of the second defendant in the suit. The petitioners in both the petitions aggrieved by the order passed in execution proceedings in E.A.No.165 of



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2016 and E.P.No.5 of 2005 in O.S.No.5 of 1996, have filed these Civil Revision Petitions.

2.These Civil Revision Petitions have been filed on the ground that as against the final decree passed by the lower Court, an appeal was filed at the instance of the fourth defendant in the suit and the said appeal was dismissed. As against the concurrent findings, the second appeal is filed and the same is pending in S.A.No.109 of 2007. However, during the pendency of the second appeal, the delivery is ordered.

3.The learned counsel for the petitioners in both petitions submit that though these petitions are filed as against the order of delivery in the execution proceedings, it would be suffice if liberty is granted to the petitioners to canvass all the grounds raised in these petitions in the pending second appeal and the proceedings regarding delivery shall be kept in abeyance till the disposal of the second appeal.

4.Admittedly, the a suit has been filed for partition. The suit was decreed in favour of the plaintiff. As against the said judgment, the fourth



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defendant filed an appeal before the Lower Appellate Court in A.S.No.67 of 2003 on the file of the Sub Court, Sankarankoil and the same was dismissed. As against the concurrent finding, second appeal was filed in S.A.No.190 of 2007 and the same is pending.

5.In view of the fact that the second appeal filed by one of the defendants is pending and at this point of time, if delivery is effected, the right of the revisions petitioners will greatly be prejudiced, the trial Court is directed to defer the delivery proceedings till the disposal of the second appeal.

6.With the above observation, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2025

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

- 1.The Principal District Munsif Court,
Sankarankoil.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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