



CRP(MD). No.3275 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 14/11/2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.3275 of 2025
and
CMP (MD)18059 of 2025

Rajamuthiah,

... Petitioner

Vs

1. Janaki,
W/o. Muthusamy,

2. G. Dhanapal,
S/o. T. Govindan,

... Respondents

PRAYER :- Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 17-10-2025 made in E.P.No.79 of 2021 in O.S.No.67 of 1992 on the file of the Principal District Munsif Court, Triunelveli.

For Petitioner : Mr. Ananth C Rajesh,

For Respondents : Mr.T.S.R.Venkataramana,
Senior Counsel



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ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 17-10-2025 made in E.P.No.79 of 2021 in O.S.No. 67 of 1992 on the file of the Principal District Munsif Court, Triunelveli.

2. Learned counsel for the petitioner would submit that the first respondent had filed a suit in O.S.No.67 of 1992 for declaration, recovery of possession and mandatory injunction. The suit was originally dismissed and the appeal suit filed by the first respondent also met the same fate. But however, in the Second Appeal filed before this Court, the judgment and decree of the first appeal were set aside and the suit was decreed, against which the petitioner had filed a Special Leave Petition and the same was also dismissed. Thereafter, the first respondent herein had filed an execution petition to execute the decree. An application was taken out by the second respondent to implead himself as a party to the proceedings, claiming that the first respondent had executed a settlement decree in his favour. However, no such settlement decree was produced before the Court. There has been no



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decree and the decree was never transferred or assigned in favour of the second respondent. The execution Court without considering the plea of the petitioner had allowed the execution proceedings in fair and decreetal order that is impugned in this Civil Revision Petition.

3. Aggrieved against the same, the petitioner had filed the present revision. He would contend that the second respondent is not a proper and necessary party to the execution. Without even producing the settlement deed or even any document to establish the same, the decree had been transferred in favour of the second respondent. The execution Court had allowed the execution proceedings and therefore, he seeks indulgence with the orders.

4. Learned Senior Counsel appearing for the respondents on the other hand would contend that the second respondent herein had been impleaded as a party to the execution proceedings, pursuant to the orders made in 28.11.2022 and having not challenged the same, the petitioner is now estopped from raising that objection that the second respondent should not have been made a party in concluding the execution petition.



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He would submit that the suit was filed as early as in the year 1992 and the decree was granted by this Court on 31.08.2020, after setting aside the judgment and decree of the trial Court and the appellate Court, the attempt made by the petitioner before the Hon'ble Supreme Court had also been negatived. Hence, the respondents had been attempting to recover their property for the past 33 years. He would further contend that the petitioner had not raised any valid ground as to how the judgment and decree is not executable and for the aforesaid reasons, he prays this Court to dismiss the Civil Revision Petition.

5. I have considered the submissions made by the learned counsel appearing for the parties on either side.

6. In a suit filed by the first respondent, a judgment and decree was granted by this Court in S.A.No.161 of 2008 dated 31.08.2020. The said judgment and decree had also attained finality and the Special Leave Petition filed by the petitioner has also been dismissed. As rightly pointed out by the learned Senior Counsel for the respondents, the petitioner had not challenged the validity of the execution proceedings



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but had challenged the same on the ground that the second respondent was not a necessary party who had been impleaded in the execution proceedings, by order of the Court in I.A.No.2 of 2021 on 28.11.2022. Having not challenged the said validity of the execution proceedings, the petitioner is now estopped from raising objections to the second respondent, having been impleaded in the execution petition. By impleading a party to the execution, the decree cannot become non-executable.

7. Accordingly, this Civil Revision Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

14.11.2025

NCC : yes / no
Index : yes / no
Internet : yes / no

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K.KUMARESH BABU, J

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To

1. The Principal District Munsif Judge, Tirunelveli.
2. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN

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