



CRP(MD). No.3713 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.12.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

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and

CMP(MD) No.19572 of 2025

1.Ganesh Muthukumar

2.Karuppasamy @ Saravanan

3.Gomukutty

4.Ramesh

5.Neela

... Petitioners

Vs

1.Essakiammal alias Yashodha

2.Paarvathiyammal

... Respondents

PRAYER :-Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records pertaining to the order dated 31.10.2025 passed in EA No.4 of 2023 in EP No.51 of 2021 in OS No.74 of 2010 on the file of the Sub Judge, Ambasamuthiram and set aside the same.



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For Petitioner : Mr.M.Arjun Varman

For R1 : Ms.P.Jessi Jeeva Priya

ORDER

This Civil Revision Petition is filed challenging the order dated 31.10.2025 made in EA No.4 of 2023 in EP No.51 of 2021 in OS No.74 of 2010 on the file of the learned Subordinate Judge, Ambasamuthiram.

2.The third parties to O.S.No.74 of 2010 on the file of the Subordinate Court, Ambasamudram, are the petitioners herein.

3.The first respondent herein/plaintiff had filed a suit in O.S.No.74 of 2010 on the file of the Subordinate Court, Ambasamudram, against the second respondent herein/defendant for the relief of declaration and recovery of possession. The said suit was decreed on 25.02.2014. The plaintiff/decreed holder had filed E.P.No.51 of 2021. Pending EP., the petitioners, who are the third parties to the suit, had filed E.A.No.4 of 2023 under Order 21 Rule 97 of C.P.C, to dismiss the above E.P.No.51 of 2021, claiming title over the property. The trial Court, after



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considering the submissions on either side, had ultimately dismissed the application. Challenging the same, the present Civil Revision Petition has been filed.

4.The learned counsel for the petitioners reiterated all the contentions set out in the memorandum of grounds of Revision.

5.It is the main contention of the learned counsel for the petitioners that the first respondent is not the legally adopted child of Karuppasamy Aasari and Muthammal and her biological father is one Palani. Further, the suit is also bad for non joinder of necessary parties, since the petitioners are having right and entitlement over the suit property in the line of succession as 2nd class legal heirs of Karuppasamy Aasari and Muthammal. Without considering all those facts properly, the trial Court had dismissed the application filed by the petitioners and thus, he called upon this Court to set aside the impugned order and grant relief as prayed for.



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6.The learned counsel for the first respondent would submit that it is for the plaintiff to choose who has to be made as a party in the suit as defendant. The third parties/objectors can file an application for impleading themselves as necessary parties in the pending suit before the trial Court. However, the third parties/objectors cannot have a right to file a petition to implead themselves in the pending execution petition.

7.Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

8.Admittedly, the first respondent had filed O.S.No.74 of 2010 on the file of the Subordinate Court, Ambasamudram, against the second respondent for declaration and recovery of possession. The said suit was decreed on 25.02.2014. The decree holder had filed E.P.No.51 of 2021. Pending EP., the petitioners, who are the third parties to the suit, had filed E.A.No.4 of 2023 to dismiss the above E.P.No.51 of 2021. The trial Court found that the petitioners have not filed even a single paper to



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establish that they are the 2nd class legal heirs of Karuppasamy Aasari and Muthammal and also the documents produced by the petitioners, namely, the certificate issued by the Viswakarma Society as well as the Ration Card, which were marked as Ex.A7 and Ex.A13 respectively, were not sufficient to state that the petitioners are the 2nd class legal heirs of Karuppasamy Aasari and Muthammal. This Court does not find any irregularity or infirmity in the order impugned herein.

9.Further, a perusal of the order passed by the Execution Court, in E.A.No.4 of 2023 reveals that this application has been filed by the petitioners claiming right over the suit property under Order 21 Rule 97 of C.P.C. Therefore, any order passed under this provision should only be construed to be a deemed decree under Order 21 Rule 103 of C.P.C.

10.In such circumstances, the present Civil Revision Petition is not maintainable and is accordingly, dismissed. It is made clear that this Court has not considered the merits of the claim made by the petitioners.



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11. At this juncture, the counsel for the petitioners would submit that delivery of property was effected on 09.12.2025 and therefore, he sought permission of this Court to file an application for re-delivery. However, it is left open to the petitioners, if they are so advised, to file an application for re-delivery provided the law permits. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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

The Subordinate Judge, Ambasamuthiram



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N.SENTHILKUMAR, J.

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