

C.R.P.(MD)No.3279 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.3279 of 2024
and C.M.P.(MD).No.18952 of 2024

S.Rajendran

... Petitioner/Petitioner/Plaintiff

Vs.

J.Mercy

... Respondent/Respondent/Defendant

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to call for the records of the petition and order passed in E.P.No.29 of 2023 in O.S.No.243 of 2021 on the file of the Principal District Court, Karur, dated 22.08.2024 and set aside the same.

For Petitioner : Mr.P.Athimoolapandian

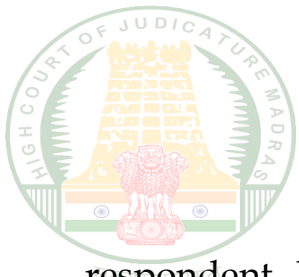
For Respondents : No Appearance

ORDER

This revision petition has been filed to set aside the order passed in E.P.No.29 of 2023 in O.S.No.243 of 2021 on the file of the Principal District Court, Karur, dated 22.08.2024.

2.The facts in brief:

Suit in O.S.No.243 of 2021 was filed by this revision petitioner against the



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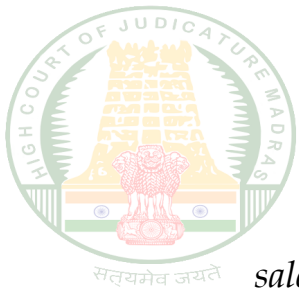
respondent herein seeking the relief of specific performance based upon sale agreement entered between the respondent's husband and the revision petitioner on 11.02.2021. The respondent appeared. There was a compromise between the parties dated 09.03.2022. By the joint compromise memo, the respondent agreed to execute sale deed in favour of the revision petitioner within a month from 09.03.2022, after receiving the balance amount of (*)Rs.4,00,000/-. Obligation was imposed upon the revision petitioner to pay the balance amount of (*)Rs.4,00,000/- within the time agreed. In the event of failure on the part of the respondent to comply the compromise revision petitioner was granted liberty to approach the Court for appropriate orders.

3.Award was passed on 09.03.2022 in L.A.No.77 of 2021.

4.Stating that the respondent herein has not coming forward to receive the balance amount of Rs.(*)4,00,000/- and execute the sale deed as agreed, E.P.No.29 of 2023 was filed by the revision petitioner. The respondent did not appear before the execution court and by the order dated 27.04.2023 the execution of sale deed was ordered as per the draft sale deed submitted by the revision petitioner.

5.Later, the matter was taken up on 31.07.2024 and the following order was passed by the execution Court.

"Already this Court by its Order dated 24.04.2023, order to execute the



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sale deed on behalf of the Judgment debtor respondent/defendant.

Further, the petitioner have also paid stamp paper for the execution of sale deed. At the time of execution of sale deed it was found that the property described in the schedule of execution petition are unapproved. Therefore, this Court reopen the case suomotu and clarification also heard on the side of the petitioner. The counsel for the petitioner informed that the petitioner have taken steps to regularize the Order from the legal bodies from competent authorities for approval of house site plots and the petitioner sought for time. Further, sufficient time was granted inspite of that the petitioner has not filed the approval for the house site plots.

Therefore, to meet the ends of justice there shall be a direction to the petitioner to file the approval for the plots in respect of the property described in the schedule of the execution on or before 19.08.2024 failing which the petition shall stand dismissed automatically. Call on 20.08.2024."

6. With the above said direction the matter was posted to 20.08.2024. There was no representation on that date. Again called on 28.08.2024. Stating that condition is not complied, E.P was dismissed. Against which, this revision is preferred.

7. Here also even though notice was served upon the respondent, she did not choose to enter appearance. So her name is printed in the cause list. The execution court says that since the plots under dispute are not approved by the competent authorities as per the provisions of District Municipalities or Town Panchayat and



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or Panchayat Act, the Court cannot execute the sale deed in favour of the revision
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petitioner.

8.The learned counsel for the revision petitioner would submit that for the purpose of approval, the competent person is only the owner to make proper application, since the petitioner is not conferred with title by way of execution of sale deed, he cannot make out any application to the concerned authorities for approving the lay out. Since the respondent has not come forward even to comply the undertaking given by her before the Lok Adalath, he cannot expect her to get the proper approval.

9.So according to him, the order passed by the Execution Court is nothing but as misconception of law and facts. There can be no impediment for execution of sale deed in respect of the unapproved plots. After getting the sale deed, he can take appropriate action. So the order passed by the execution Court must be set aside.

10.This Court is able to appreciate the grievance expressed by the revision petitioner. As on date the revision petitioner is not the owner of the property. The owner of the property as on date has not come forward to get the approval, for which, this revision petitioner could not be penalized. So it is for the revision petitioner to take appropriate steps in the direction, after getting the sale deed executed. So the order passed by the execution court is liable to be set aside.



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Accordingly, set aside. There shall be a direction to the execution Court to restore EP to its file, proceed with the execution proceedings in accordance with law. Let the process be completed within three months from the date of receipt of a copy of this order.

11. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

01/04/2025

(*)Corrected as per the order of this court dated 21.03.2025 and made in CRP(MD).No.3279 of 2024.

Sd/-

Assistant Registrar(CO)

// True Copy //

/02/2025

Sub Assistant Registrar()

TM

(To be substituted to the order which is already despatched on 20.03.2025)

To

1. The Principal District Judge, Karur.



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2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P.(MD)No.3279 of 2024
24.02.2025

AS -(01.04.2025) 6P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.