



C.R.P.(MD)No.259 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.259 of 2025
and C.M.P.(MD).No.1550 of 2025

1.C.Rasappan
2.K.Kulandaivel
3.K.P.Kandasamy

... Petitioners/Petitioners/Proposed
Respondents 2 to 4/3rd Parties.

Vs.

1.A.Nallasivam
2.K.Periasamy

... 1st Respondent/1st Respondent/
Petitioner/Plaintiff
... 2nd Respondent/2nd Respondent/
Respondent/Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in E.A.No.1 of 2020 in E.P.No.7 of 2019 in O.S.No.16 of 2018 dated 19.06.2024 on the file of the Additional District Judge, Karur.

For Petitioners : Mr.D.R.Murugesan

For Respondents : Mr.N.Sundaresan



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ORDER

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This revision petition has been filed to set aside the order passed in E.A.No.1 of 2020 in E.P.No.7 of 2019 in O.S.No.16 of 2018 dated 19.06.2024 on the file of the Additional District Judge, Karur.

2.The facts in brief:

The revision petitioners filed E.A.No.1 of 2020 in E.P.No.7 of 2019 in O.S.No.16 of 2018 under Order 1 Rule 10(2) of CPC and Section 151 of CPC to implead themselves as respondents 2 to 4 in the execution petition, stating that the second respondent in this petition namely Periyasamy, who is the Judgment Debtor in O.S.No.16 of 2018, borrowed loan amount on execution of the pronote. Later he filed insolvency petition in I.P.No.14 of 2017 before the Additional Sub Court, Karur, wherein, the petitioners and the first respondent were shown as respondents. In the insolvency petition, he has mentioned the value of the property as Rs.80,00,000/- and the total value of the assets as Rs.1,20,10,000/- and the liabilities as Rs.1,32,58,130/-. The first respondent remained exparte in the insolvency proceedings.



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3.Later they came to know that the respondents 1 and 2 created some documents and allowed the suit to be decreed as prayed for by the second respondent. Based upon which, now the execution petition is filed and if the execution is ordered, the right of the petitioner will be affected. So they must also be heard in the execution petition, for which, they must be impleaded.

4.The decree holder filed a counter stating that the suit was filed on the basis of the sale agreement, dated 21.03.2016. As per the sale agreement, the second respondent did not come forward to execute the sale deed; So the suit was filed; The decree was passed; Now put in execution. The decree was passed on 31.10.2018. During the pendency of the suit, I.P.No.4 of 2017 was filed. A discussion was made by the trial Court regarding the pendency of the insolvency proceedings also. Now the second respondent filed Insolvency Petition in collusion with these revision petitioners. So they are not necessary parties in the execution petition.

5.The Execution Court by the order, dated 19.06.2024, dismissed



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the petition finding that as mentioned in the counter the relevancy of I.P.No.4 of 2017 was discussed and so the revision petitioners are not necessary parties. Against which, this revision is preferred.

6.Heard both sides.

7.Report was called for from the Additional Sub Court, Karur, as to the stage of I.P.No.4 of 2017. Report submitted stating that the above said I.P was dismissed for default and later, application was filed by the second respondent herein to restore the I.P. This is the present stage of the I.P proceedings.

8.Now the grievance of the revision petitioners is that they also got right to be heard in the E.P proceedings. It is allowed to be executed, then their valuable right will be affected. As mentioned by the Execution Court, it appears that so far no right is created in respect of the properties in favour of the revision petitioners. The third revision petitioner namely K.P.Kandasamy is shown as 24th respondent, the first revision petitioner namely C.Rasappan is shown as 16th respondent and second revision



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petitioner Kulandaivel is shown as 23rd respondent and the liabilities towards these revision petitioners also stated in the insolvency petition.

Even if the decree is going to be executed in favour of the decree holder the right of these revision petitioners will be taken note in the IP proceedings. So as on date no right is created in favour of these revision petitioners in the property belongs to the second respondent. As such they are not necessary parties to be heard. Moreover, in respect of the specific performance suit, they are third parties. The execution can be ordered only against the second respondent. These revision petitioners cannot make any objection regarding the execution of the decree, of course, as mentioned above, their right will be protected in the IP proceedings.

9. Whether the decree passed by the first respondent is collusive, cannot be the matter for consideration in the EP proceedings at the instance of these revision petitioners. So I find that these revision petitioners are not necessary parties. So the order passed by the Execution Court does not suffer from any illegality and perversity. This revision fails.



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WEB COPY 10. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.03.2025

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

1. The Additional District Judge, Karur.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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