



C.R.P. No.743 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HONOURABLE MRS. JUSTICE N. MALA

C.R.P. No.743 of 2026
and C.M.P. No.3862 of 2026

P.K. Sambasivam

... Petitioner/ Petitioner/ Respondent/ Defendant

Vs

S. Arumugam

... Respondent/ Respondent/ Petitioner/ Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Petition Order dated 20.11.2025 passed in Un.R.E.A. No._ of 2023 in R.E.P.No.18 of 2023 in O.S.No.284 of 2018 on the file of the learned III Additional District Judge, Salem.

For Petitioner : Mr. P. Jagadeesan

For Respondent : Mr. V. Sekar

ORDER



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This Civil Revision Petition is filed against the Order dated 20.11.2025 passed in Unnumbered R.E.A. No. ___ of 2023 in R.E.P. No.18 of 2023 in O.S. No.284 of 2018 on the file of the learned III Additional District Judge, Salem.

2. Since the respondents would not be adversely affected by the order to be passed herein, the Civil Revision Petition is disposed of without notice to the respondents.

3.1 The facts leading to the above civil revision petition are as follows:

3.2 The respondent herein filed a suit against the petitioner in O.S.No.284 of 2018, on the file of the III Additional District Judge, Salem and obtained a decree for recovery of a sum of Rs.13,90,000/- with future interest @ 9% per annum from 12.09.2018 to 31.10.2018 on the principal amount of Rs.10,00,000/- and thereafter, at the rate of 6% from 01.11.2018 till 09.02.2023. For the realisation of the decretal amount, by selling petitioner's immovable property, the respondent preferred an execution petition in R.E.P.No.18 of 2023. The petitioner stated that, he came to know about the EP proceedings, only when he received the notice, through Court Amin on 10.11.2025. The petitioner immediately engaged an Advocate, who verified



and informed him, that the petitioner was set ex-parte on 09.06.2023, itself.

Thereafter the petitioner, immediately filed an application to set aside the ex-parte order dated 09.06.2023, within 30 days from the date of knowledge.

However, the Execution Court without properly considering the said facts, erroneously rejected the said application on 20.11.2025, on the premise that the petitioner received notice on 09.06.2023, itself. Aggrieved by the said order dated 20.11.2025, the petitioner filed the above Civil Revision Petition.

4. The learned counsel appearing for the petitioner submitted that, the Execution Court, even without numbering the petitioner's execution application, dismissed it, without affording the petitioner, an opportunity to contest the matter on merits. The learned counsel further submitted that, the procedure adopted by the E.P. Court was erroneous and not in accordance with law, hence he prayed to set aside the order dated 20.11.2025, of the Execution Court with a direction to the Execution Court, to afford an opportunity to the petitioner to contest the matter on merits.

5. Heard Mr. V. Sekar, learned counsel appearing for the respondent and perused the materials available on record.



6. The records reveal that, in the unnumbered R.E.A in R.E.P.No.18 of 2023, the petitioner contended that he had no knowledge of the Execution proceedings, till he received summons through the Court Amin on 10.11.2025, and that, immediately thereafter, he filed the application, to set aside the ex-parte order dated 09.06.202. However, it appears that the Execution Court, without affording an opportunity to the petitioner to establish his case, dismissed the petition even without numbering it. It is evident, from the above that the procedure adopted by the Execution Court is against the principles of natural justice and against all canons of law.

7. The Hon'ble Supreme Court, in the case of ***P.Surendran vs. State by Inspector of Police*** reported in ***2019 (9) SCC 154***, held in paragraphs No.10 and 11 as follows:-

“10. The act of numbering a petition is purely administrative. The objections taken by the Madras High Court Registry on the aspect of maintainability requires judicial application of mind by utilizing appropriate judicial standard. Moreover, the wordings of Section 18-A of the SC/ ST Act itself indicate at application of judicial mind. In this context, we accept the statement of the Attorney General, that the determination in this case is a judicial function and the High Court Registry could not have rejected the numbering.

11. Therefore, we hold that the High Court Registry could not have exercised such judicial power to answer the maintainability of the petition, when the same was in the realm of the Court. As the power of judicial function cannot be delegated to the Registry, we cannot sustain the order, rejecting the



numbering/ registration of the petition by the Madras High Court Registry. Accordingly, the Madras High Court Registry is directed to number the petition and place it before an appropriate Bench.”

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8. So also, a learned Judge of this Court, in ***Selvaraj and Others. vs. Koodankulam Nuclear Power Plant India Limited [2021 (3) LW 677]***, while considering the rejection of a plaint even without numbering the same, held that it was not the duty of the Court to wear the cap of the defendant and look at the plaint in an adversarial manner as if it is stepping into the fight of litigation. The learned Judge further held that the role of the Court was that of an Arbitrator and that, it cannot exceed that limitation. The learned Judge specifically held that the question of maintainability or otherwise could be considered only after the plaint was numbered and summons were served to the defendant.

9. The aforesaid decisions squarely apply to the facts of the present case. The Executing Court returned the petitioner's petition filed under Order 21 Rule 106 of R/w CPC, even without numbering it on the ground that the petition was filed beyond 30 days from the date of ex-parte order passed under Order 21 Rule 23 of CPC. The Executing Court by returning the petitioner's petition, even before numbering it, has donned the robes of the respondent which is impermissible. As laid down in the aforesaid judgments, the Executing Court is bound to number the petition, afford an opportunity to



the petitioner as well as the respondents to contest the issue of maintainability and thereafter pass judicial order either allowing or rejecting the petition.

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10. Under the said circumstances, this Court is of the view that the order dated 09.03.2026 passed in unnumbered R.E.A. No.____ of 2023 in R.E.P.No.18 of 2023 in O.S.No.284 of 2018 cannot be sustained and the same deserves to be set aside.

11. Accordingly, this Civil Revision Petition is **allowed** and the order dated 09.03.2026 passed in unnumbered R.E.A. No.____ of 2023 in R.E.P.No.18 of 2023 in O.S.No.284 of 2018, is set aside. The Registry of the III Additional District Court, Salem, is directed to number the R.E.A in R.E.P.No.18 of 2023 in O.S.No.284 of 2018 and post the same before the III Additional District Judge, Salem, who shall, after giving notice to both parties, consider and dispose of the same on merits and in accordance with law, within a period of four weeks from the date of receipt of copy of this order.

12. The Registry is directed to return the original documents to the learned counsel for the petitioner, on verification. Consequently, connected civil miscellaneous petition stands closed. There shall be no order as to costs.



C.R.P. No.743 of 20

24.03.2026

To

The III Additional District Judge,
Salem.

N. MALA, J.

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