



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2026

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1832 of 2024

& CMP.No.9674 of 2024

& CMP.No.12255 of 2025

R.Mohanraj

... Petitioner

Vs.

1.K.Mani (Died)
Rangasamy (Died)
2.R.Gopalakrishnan
3.R.Lakshmanan
4.Sulochana
5.Dhanalakshmi
6.N.Savithiri
7.N.Bakyalakshmi
8.G.Dhanabakkiam
9.T.Sivagami
10.M.Shanmugavel
11.S.Annapoorani
12.S.Nagamanickam
13.S.Nagaraj
14.R.Beenakumari
15.R.Dhanush
16.Minor R.Logesh

... Respondents

*[RR8 to 16 are brought on
record as Lrs of the deceased
R1 viz., K.Mani vide Court
order dated 23.04.2025 in*



*CMP.No.24508 of 2024 in
CRP.No.1832 of 2024]*

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Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 13.12.2022 passed in E.A.No.13 of 2022 in E.P.No.127 of 2005 on the file of the II Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.Deivasigamani
for M/s.R.Pushpalatha

For Respondents : Mr.C.R.Prasanan

ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.12.2022 passed in E.A.No.13 of 2022 in E.P.No.127 of 2005 on the file of the II Additional Subordinate Judge, Coimbatore.

2.Heard Mr.Deivasigamani, learned counsel for M/s.R.Pushpalatha, learned counsel for the revision petitioner and Mr.C.R.Prasanan, learned counsel for the respondents.

3.The petitioner is one of the judgment debtors in the execution



petition and an application for break open has been allowed by the executing Court. Challenging the same, the present revision has been filed.

4.The learned counsel for the revision petitioner contends that the petitioner was not put on notice about the application and further, the Court has not assigned any reasons for entertaining the break open application filed by the respondent/decreed holder. He would further state that the petitioner was not present when the Bailiff went to the suit property, in order to deliver possession to the decreed holder and that a false report has been filed by the Bailiff.

5.Per contra, the learned counsel for the respondents would contend that the respondent/decreed holder has been suffering for the past 20 years and the judgment debtors, including the petitioner are protracting the proceedings, only to deny the fruits of the decree to the respondent/decreed holder. The learned counsel for the respondents also relies on the decision of this Court in *Natesan (Died) and others Vs. Shanmugam (Died) and others*, reported in 2010 1 MLJ 1086, where this Court has given directions to the executing Court for expeditious disposal of the execution petition. The learned counsel for the respondents would also state that when the judgment



debtors have suffered a decree and the matter has also attained finality, they cannot be expected to be served with notice at every stage, which would only further prolong the agony for the respondent/decreed holder. He would therefore pray for dismissal of the revision petition.

6.I have carefully considered the submissions advanced by the learned counsel on either side.

7.In E.P.No.127 of 2005, the respondents/decreed holders filed E.A.No.13 of 2022, seeking break open of the locks, contending that when the Bailiff visited the suit property, the suit property was found locked and therefore, the application was necessitated. However, the executing Court in a cryptic manner has passed the following order:

“Orders pronounced. The Execution Court is bound to pass necessary orders for due execution of the decree. Hence, the petition is allowed.”

8.The executing Court has not even found the averments set out in the affidavit to be *prima facie* tenable or warranting consideration. Therefore, I find merit in the submissions of the learned counsel for the petitioner that



the order is virtually a non-speaking order. At the same time, the petitioner cannot take advantage of the order, directing break open and prolong the execution petition for months together.

9.The grievance of the petitioner is that he was not present when the Bailiff visited the property to execute the warrant. For this limited purpose, the petitioner is entitled to cross examine the Bailiff concerned. The executing Court shall fix a date on or before 06.02.2026, for the purposes of giving an opportunity to the counsel for the petitioner to cross examine the Bailiff. The cross examination shall be completed on the particular date without any adjournment. The execution Court shall thereafter proceed to pass final orders and in the event of the executing Court finding that the Bailiff's observation and report are true, then the order passed, allowing break open need not be interfered with. In the event of the petitioner being able to establish any material facts to the contrary, then, the Court shall permit the petitioner to advance arguments in the EP. The execution Court shall not entertain any further applications as the scope is now limited only to whether the report of the Bailiff is true or not. The execution petition shall be disposed of, on or before 31.03.2026.



10. With the above observations and directions, the Civil Revision Petition is disposed of. No costs. Connected Civil Miscellaneous Petitions are closed.

22.01.2026

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

The II Additional Subordinate Court, Coimbatore.



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P.B. BALAJI,J.

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