



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2026

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1598 of 2023

D.Joseph

... Petitioner

Vs.

1.D.Jones (Died)
2.Glory Jones
3.Nyana Raj
4.Nyana Soundarya
5.Anand Raj

... Respondents

[RR2 to 5 are brought on record as LRs of the deceased sole respondent viz., D.Jones vide Court order dated 16.12.2025 in CMP.Nos.27336, 27338 & 27339 of 2025 in CRP.No.1598 of 2025]

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 07.11.2022 passed in E.P.No.2 of 2016 in O.S.No.97 of 1997 on the file of the District Munsif Court, Chengalpet.

For Petitioner : Mr.K.V.Babu

For Respondents : No appearance



ORDER

This revision has been filed to set aside the order dated 07.11.2022 passed in E.P.No.2 of 2016 in O.S.No.97 of 1997 on the file of the District Munsif Court, Chengalpet.

2.I have heard Mr.K.V.Babu, learned counsel for the revision petitioner.

3.The petitioner obtained a decree in O.S.No.97 of 1997, whereby the trial Court has declared the possessory right and title of the revision petitioner, besides also giving a direction to the defendant to vacate and hand over vacant possession. In order to execute the said decree, the petitioner filed E.P.No.2 of 2016 before the District Munsif Court, Chengalpattu. The said execution petition has been dismissed, in and by the impugned order dated 07.11.2022, on the ground that the EP has not been filed against the other defendants 2 and 3, though they were added as parties to the suit.

4.Mr.K.V.Babu, learned counsel for the revision petitioner states that the petitioner, as decree holder, has a right to choose the person to be



arrayed as respondent in the execution petition. Even according to the petitioner, it is only the respondent in the execution petition who is in possession of the property, the recovery of which is sought for in the execution petition. Therefore, the EP has been rightly filed against the 1st defendant alone. I do not see how the executing Court can compel the decree holder to proceed against the defendants 2 and 3, who according to the decree holder, are not in possession and consequently, not liable to honour the decree for possession.

5. In view of the above, the Civil Revision Petition is allowed and the order dated 07.11.2022 in E.P.No.2 of 2016 in O.S.No.97 of 1997 on the file of the District Munsif Court, Chengalpet, is set aside. The executing Court shall proceed with the EP and dispose of the same on or before 30.04.2026. There shall be no order as to costs.

22.01.2026

Speaking/Non-speaking : Yes/No

Index : Yes / No

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P.B. BALAJI,J.

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To
The District Munsif Court, Chengalpet.

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