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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 3611 of 2023

CNR: {HCMA011182852023}

1. Angammal (died)
2. Chinnasamy
3. Rakkimuthu

Case QR

Selvaraj(Died)

..Petitioner(s)

Vs

Gurusamy (Died)

1. Vijayakumar (Died)
2. Latha
3. Rathidevi

(R1 Died RR2 to 3 already on record as LRs of the deceased R1 as per the Memo dated 06.10.2026 and vide Order of Court dated 09.10.2026 made in C.R.P.No.3611 of 2023 (SSJ)).

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the decretal and fair order dated 16.02.2023 passed in E.A.No.1 of 2019 in E.P.No.6 of 2018 in O.S.No.444 of 1996 on the file of District Munsif Court, Sulur.

For Petitioner(s): Mr.S.Gunaseelan
For Respondent(s): Mr.D.Bennington
for Mr.M.S.Charles for R2 & R3

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ORDER

The Civil Revision Petition is filed challenging the order passed by the Executing Court allowing the application filed by the respondents under Section 47 of the Code of Civil Procedure.

2.The petitioner's predecessor in interest namely Angammal and her sister Karuppathal filed a suit for partition against their brother and predecessor in interest of the respondents namely deceased Gurusamy. The said suit was decreed by allotting 2/6th share to above said Angammal. Thereafter, the petitioners in their capacity as legal heirs of Angammal filed Execution Petition in E.P.No.6 of 2018 seeking delivery of portion of suit property allotted to them during final decree. In the said Execution Petition, the respondents / legal heirs of deceased Gurusamy filed an application under Section 47 of Code of Civil Procedure contending that the property allotted to Angammal in the final decree was leased out to Gurusamy by father of Angammal and the said Gurusamy was recorded as a cultivating tenant in respect of the said property. Therefore, according to the respondents though the property was allotted to Angammal in the final decree proceedings she was not entitled to take physical possession of the property as the possession of Gurusamy and his legal heirs are protected by statutory right under Tamil Nadu Cultivating Tenants Protection Act, 1955. The said Section 47 application was allowed by the Executing Court. Aggrieved by the same, the petitioners have come before this Court.

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3.The learned counsel for the petitioners would vehemently contend that the original recorded tenant namely Gurusamy is no more and the respondents who are all married daughters of Gurusamy cannot be treated as cultivating tenants of the property. Therefore, according to them, the Executing Court committed an error in allowing the application filed under Section 47 of C.P.C.

4.As per the definition of the expression “Cultivating Tenant” under Section 2 (aa) of Tamil Nadu Cultivating Tenants Protection Act, the cultivating tenant includes any heir of such tenant provided, the said heir also contributes his physical labour in cultivating the property.

5.In the case on hand, as per the exhibits marked before the Executing Court in the Section 47 application, it was clearly proved that the above said Gurusamy was recorded as cultivating tenant by Record Officer constituted under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969. The said order passed by the Record Officer was challenged by Angammal represented by her power agent namely Chinnasamy by filing an appeal before the Revenue Court and the said appeal was dismissed for default.

6.In such circumstances, the order passed by the competent authority under Tamil Nadu Agricultural Land Records of Tenancy Rights Act, 1969, recording Gurusamy as cultivating tenant had attained finality. When the

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property allotted to Angammal is in possession of a cultivating tenant or his heirs, she is not entitled to have physical possession of the property. At the most, she can only take symbolic possession of the property subject to the leasehold rights. If the heirs of recorded tenant contribute their physical labour in cultivating the property they can also be treated as cultivating tenant. In such case, the petitioners are not entitled to evict them except by due process of law as per provisions of Tamil Nadu Cultivating Tenants Protection Act. On the other hand, if there is no contribution of physical labour by the heirs of recorded tenant, they can still be treated as ordinary lessee. Even then, lessee's possession cannot be disturbed except by due process of law. In such case, it is for the petitioners to work out their remedy by moving the regular court in the manner known to law. In any event, the petitioners are not entitled to take physical possession of the property as the property found to be in possession of respondents under a lease arrangement. In such circumstances, I do not find any reason to interfere with the impugned order passed by the trial Court. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioners to work out their remedy in the manner known to law. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To:-
The District Munsif Court,
Sulur.

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S.SOUNTHAR, J.

EP

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