



WEB COPY

CRP No. 3188 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-06-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 3188 of 2024
and CMP.No.17047 of 2024**

1. K.Damodaran(deceased), D.Kumaresan
(deceased) 1. K.Varalakshmi
W/o. Late D.Kumaresan, Res. at No. 41/1,
Chinnaiyya New Colony, 4th Cross Street,
Perambur, Chennai 600 011.
2. K.Surya
S/o. Late D.Kumaresan, Res. at No. 41/1,
Chinnaiyya New Colony, 4th Cross Street,
Perambur, Chennai 600 011.
3. K.Kiran
So. Late D.Kumaresan, Res. at No. 41/1,
Chinnaiyya New Colony, 4th Cross Street,
Perambur, Chennai 600 011.

..Petitioner(s)

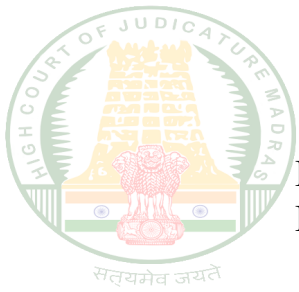
Vs

M.S.Kannan
S/o. Subramani Iyer, No. 14/2, Chinnaiyya New
Colony, 4th Cross Street, Perambur, Chennai 600
011.

..Respondent(s)

Prayer:

Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the Order dated 16.07.2024 passed in EP No. 2247 of 2012 on the file of XXVI Assistant Judge, City Civil Court at Chennai and Dismiss the above EP.



For Petitioner(s):
For Respondent(s):

MR.J.R.K.Bhavanantham
MR.C.RAJAKUMAR

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ORDER

Challenging the impugned order passed in E.P. No.2247 of 2012, the judgment debtors have preferred the present revision.

2. The learned counsel for the petitioners raised the following grounds as under:

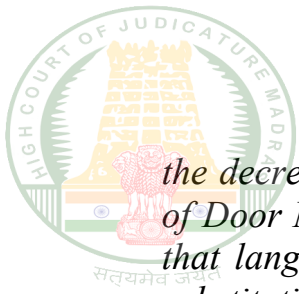
“2.The Lower Court ought to have considered the motor and pump set are situated in the vacant land site of the house bearing No.14/1, Chinnaiaiyya New Colony, 4th Cross Street, Perambur, Chennai-600 011 and the decree is inexecutable for not framed in compliance with Or.VII Rule 3 of CPC identifying the said plaint schedule property which is not perfect and lacking in door number, house and street name of the defendant is silent in C1.9 and 12 of the execution petition.

3. Having observed that the trial Court passed decree removal of articles by way of mandatory injunction which is found in C1.1 of the decree, the Lower Court ought to have seen that the boundary description of the premises bearing old No.55A, New Door No.14/2, Chinnaiaiyya New Colony, 2nd Main Street, Perambur, Chennai-600 011 bounded on the :-

Northby: under the name and style of New Modern Chips and whereas in the schedule description north and south of the decree holder's description is bound by property belonging to Mohan and hence the boundary description lacks accuracy and ground reality for execution.

4.Having held that they were two decree one for mandatory injunction for removal of articles and perpetual injunction restraining the judgment debtor by way of C1.2 of the decree.

6.The Lower Court grossly erred in holding that the identity of the petition property and non execution of the decree could not arise in view of the fact that



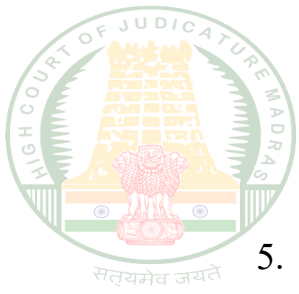
the decree holder/respondent wrongly mentioned in Col.9 Door No.12, instead of Door No.14/2 which is not the subject matter of the execution for the reason that language used in the description of the schedule cannot be improved by substitution of another number which is not found in the schedule description.

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7. The Lower Court ought to have dismissed the execution petition for the reason that it relates to the property not in existence and the decree is un-executable.”

3. Per contra, the learned counsel for the respondent/decreed holder raised objections contending that the Courts below have rightly held that the judgment debtor is bound to remove the unauthorized constructions put up by him in the eastern portion of the suit property, which belongs to the plaintiff, as found in O.S. No.8490 of 2008. The said findings have already been confirmed by the First Appellate Court in A.S. No.121 of 2011.

4. Even before the Trial Court, an Advocate Commissioner was appointed and, upon inspection of the suit property, found that the disputed portion measuring 2.27 feet was a vacant space and that the defendant had put up illegal constructions, including a borewell, motor pump and pipelines. The Commissioner submitted his report accordingly and, based on the same, the Trial Court granted the relief as prayed for. Thereafter, the decree holder initiated execution proceedings and the Executing Court rightly ordered enforcement of the decree by way of mandatory injunction directing removal of the unauthorized structures.



5. I do not find any reason to interfere with the findings of the Courts below. The suit is of the year 2008 and, all these years, the plaintiff has been deprived of the absolute enjoyment of his property due to the illegal occupation and unauthorized structures put up by the judgment debtors, such as the borewell, motor pump and pipelines. Therefore, the findings rendered by the Executing Court require no interference.

6. However, considering the facts and circumstances of the case, two months' time is granted to the judgment debtors to remove the pipelines, borewell and motor pump set.

7. Accordingly, this Civil Revision Petition is dismissed, being devoid of merits. No costs. Consequently, the connected miscellaneous petition is closed.

22-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MPA

To

1. The XXVI Assistant Judge, City Civil Court, Chennai.

2. The Section Officer, VR section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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