



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :24.03.2026

CORAM:

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P(MD)Nos.596 of 2026 and 3247 of 2024

and

C.M.P(MD)Nos.2773 of 2026 and 18724 of 2024

C.R.P(MD)Nos.596 of 2026

M.Sathish Kumar ... Petitioner/Third Party/Third
Party/

Third Party

.Vs.

1.V.Annadurai ...Ist Respondent/Petitioner and
Auction Purchaser/Third Party/
Third Party

2.Subbiah ...Ist Respondent/Ist Respondent/
Ist Respondent/Plaintiff

3.Muthuramalingam ..2nd Respondent/2nd Respondent/
2nd Respondent/Defendant

C.R.P(MD)Nos.3247 of 2024

M.Sathish Kumar ... Petitioner/Petitioner/Claim
Petitioner/Third Party/Third Party



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1.Subbiah	.Vs. ...Ist Respondent/Ist Respondent/ Ist Respondent/Petitioner/Plaintiff
2.Muthuramalingam	..2 nd Respondent/2 nd Respondent/ 2 nd Respondent/Respondent/ Defendant
3.Senthil Kumar	...3 rd Respondent/3 rd Respondent/ 3 rd Respondent/Third Party/ Third Party
A.S.Muthiah Mudhaliyar(died)	...4 th Respondent/4 th Respondent/ Auction Purchaser/Third Party
4.Piramu Ammal	
5.M.Murugan	
6.Lalitha	
7.Subbulakshmi	
8.Dhanalakshmi	..Respondents 4 to 8/Respondents 4 to 9/Third Parties/Third Parties/ Third Parties/LRs of Late,. A.S. Muthiah Muthaliyar
9.V.Annadurai	..9 th Respondent/10 th Respondent/3 rd party/Third Party/ Auction Purchaser



PRAYER in C.R.P(MD)No.596 of 2026: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to set aside the order made in E.A.No.1 of 2022 in E.P.No.56 of 2007 in O.S.No.47 of 2006, dated 7.11.2024, on the file of Sub-Court, Sankarankovil.

PRAYER in C.R.P(MD)No.3247 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to set aside the docket order made in unnumbered E.A.No.....of 2024 in E.P.No.38 of 2009 in E.P.No.,56 of 2007 in in O.S.No.47 of 2006, dated 19.12.2024, on the file of Sub-Court, Sankarankovil.

C.R.P(MD)No.596 of 2026:

For Petitioner : Mr.H.Arumugam

C.R.P(MD)No.3247 of 2024:

For Petitioner : Mr.H.Arumugam

For Respondent-1 : Mr.K.Jeyamohan

For Respondent-9 : Mr.Aayiram K.Selvakumar

For Respondents : No appearance
2,3 and 6

ORDER

These two revisions represent a very unfortunate situation that is prevailing before the Subordinate Judge at Sankarankovil.



WEB COPY 2. For the sake of convenience, the parties will be referred to as claimants, decree-holder and as auction purchaser.

3. The decree-holder presented a suit in O.S.No.47 of 2006 against one Muthuramalingam. This suit was for recovery of a sum of Rs.2,94,635.50/-. It was on the basis of a promissory note that is said to have been executed by Muthuramalingam in favour of the plaintiff on 16.06.2003. This suit came to be decreed ex-parte on 30.10.2006. To execute this decree, the decree-holder presented E.P.No.56 of 2007, on the file of Subordinate Court at Sankarankovil. Item Nos.2 and 4 of the E.P schedule properties were sold. The matter was listed on 12.3.2009 for confirmation of the sale.

4. The claimant, who is none the son of Muthuramalingam, claimed that the Item Nos.1 to 3 of the schedule properties belonged to his mother/wife of Muthuramalingam, one Selvarani. After her demise, Muthuramalingam himself and his brother, are entitled to it in equal moieties. He filed a claim petition invoking Order 21 Rule 58 of Civil Procedure Code in E.A.No.38 of 2009 claiming that his undivided 1/3rd share cannot be brought for sale. As the claim petition was pending, the sale was not confirmed.



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5. Notice was ordered to the respondents in the claim petition, the matter was listed on 27.10.2009 for filing of counter.. On that day, neither the judgment creditor file his counter nor the claimant appeared. This happened on account of the fact that the Advocates had resolved to abstain from the Court. The learned Subordinate Judge, dismissed the Claim Petition, for default.

6. On coming to know this dismissal the claimant presented E.A.No.324 of 2009 invoking Order 21 Rule 106 of the Code of Civil Procedure to restore E.A.No.38 of 2009. This application to restore was dismissed, on merits on 28.6.2010.

7. Aggrieved by the said order, the claimant had preferred C.M.A.No.33 of 2010, on the file of I Additional District and Sessions Judge, Tirunelveli. The learned I Additional District and Sessions Judge, Tirunelveli by, order dated 2.7.2015 allowed the appeal and restored E.A.No.38 of 2009 on to the file of learned Subordinate Judge, Sankarankovil. Despite an order being passed by a superior Court restoring the application, it transpires that the learned Subordinate Judge, Sankarankovil, did not restore E.A.No. 38 of 2009 and proceed in accordance with law, as directed by the learned District Judge.



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8.In the meantime, an application was filed in E.A.No.218 of 2011 by the auction purchaser,one Muthiah Mudhaliyar, seeking delivery of possession. The Executing Court passed an order dated 29.6.2012 for delivery of Item Nos.2 and 4. Challenging the said order of delivery, the claimant preferred a revision before this Court in C.R.P(MD)No.1752 of 2012.

9.When the matter was taken up for disposal on 18.11.2020, it was pointed out by the learned counsel for the claimant that the claim petition had been restored by the order of the District Judge referred to above. Consequently, this Court, vide order dated 18.11.2020, disposed the revision challenging the order of delivery directing the learned Subordinate Judge at Sankarankovil to dispose of the claim petition. Even thereafter, the learned Subordinate Judge did proceed further with E.A.No.38 of 2009.As there was no impediment to take delivery of possession, the auction purchaser of the other items namely, 9th respondent herein, one Annadurai, presented E.A.No.1 of 2022 under Order 21 Rule 95 of Code of Civil Procedure.The learned Subordinate Judge took up this application for delivery of possession and allowed the same on 7.11.2024. Challenging the same, C.R.P(MD)No.596 of 2026 has come up before this Court.



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10. Having succeeded before the learned District Judge, for restoration of the claim petition, the claimant had filed an application in unnumbered E.A.No..... of 2024 calling upon the learned subordinate Judge, Sankarankovil to restore E.A.No.38 of 2009 and dispose of the same in accordance with law. By order dated 19.12.2024, the Executing Court holding that the claimant is to be blamed for not having proceeded with E.A.No.38 of 2009, and without numbering this reminder petition, dismissed the same. Aggrieved by the said order, C.R.P(MD)No.3247 of 2024 has been filed

11. When the said revision came up for admission, noticing that the issue raised in this revision and C.R.P(MD)No.596 of 2026 are common, I directed the Registry to post both the matters together. Thereafter, by order dated 12.3.2026, I called upon the learned Subordinate Judge, to submit a report to this Court as to why E.A.No.38 of 2009 had not yet been disposed of.

12. In obedience to this direction, the learned Subordinate Judge, Sankarankovil has submitted a report on 24.3.2026 stating that the only record available in the Court is the dismissal order in E.A.No.38 of 2009, but the order passed by the learned Ist Additional District and Sessions Judge, Tirunelveli in C.M.A.No.



33 of 2010 was never brought to the knowledge, of the learned Subordinate Judge. It states no endorsement was obtained from the Presiding Officer. Hence, E.A.No.1 of 2022 was proceeded with in ignorance of the order passed in C.M.A.No.33 of 2010.

13.I have heard Mr.H.Arumugam, for the revision petitioners in both the revisions and Mr.K.Jeyamohan, for the first respondent and Mr.Aayiram K.Selvakumar, for the 9th respondent in C.R.P(MD)No.3247 of 2024 . I have gone through the records.

14.The claimant seeks declaration that he is entitled to 1/3rd share. It is his case that the property belongs to his mother Selvarani and he has succeeded to the estate on her death.

15.As per Order 21 Rule 58 of Code of Civil Procedure,the Trial Court ought to have disposed of the claim petition first and thereafter, confirmed the sale. By virtue of the order passed by the learned Ist Additional District and Sessions Judge, Tirunelveli in C.M.A(MD)No.33 of 2010, dated 2.7.2015, the claim petition presented on 11.3.2009 in E.A.No.38 of 2009 was restored on to the file of the learned Subordinate Judge, Sankarankovil.. The mistake committed by the Registry of the learned Subordinate Court at



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Sankarankovil cannot be placed at the doors of the claimant. The litigant, after obtaining the copy of the order of dismissal, had preferred an appeal and was successful. Once the superior authority had set aside the order of the learned Subordinate Judge, the Registry of the said Court ought to have taken note of the said order and restored E.A.No.38 of 2009 and the said application should have been proceeded further. Had it been done so, none of the proceedings including these two revisions, would have been presented. On account of the mistake committed by the Registry of the learned Subordinate Court, Sankarankovil, this Court has been troubled by way of three revisions and that too, in a gap of 15 years.

16.The learned Subordinate Judge, at least after the order was passed by the HONOURABLE MR.JUSTICE R.MAHADEVAN on 18.11.2020 should have immediately traced the bundle in C.R.P(MD)No.1752 of 2012 and restored E.A.No.38 of 2009 on to his file. Instead, he, by the impugned order dated 19.12.2024, found fault with the claimant.

17.This Court is not aware of any litigant being entitled to deal with the bundle of a Court. Only in such an event, claimant can be found fault with. The claimant can only bring to the



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knowledge of the Court the order passed by the superior authority. Once such an order is brought to the knowledge of the Court, instead of blaming the claimant, the Court itself can reconstruct the bundle or trace the original papers and proceed in accordance with law.

18. When there is an order dated 2.7.2015 in C.M.A.No.33 of 2010 passed by the learned Ist Additional District and Sessions Judge, Tirunelveli, it is implicit that the learned Subordinate Judge has to obey the said order. The order, dated 19.12.2024, cannot be sustained even for a moment. Accordingly, it is set aside.

19. Insofar as the delivery of possession passed in E.A.No.1 of 2022 is concerned, when a claim petition is pending on the file of the Executing Court, in terms of Order 21 Rule 92(1) of Code of Civil Procedure, the sale itself should not have been confirmed. In other words, when E.A.No.38 of 2009 had been restored on 2.7.2015, the learned Subordinate Judge ought not to have confirmed the sale in favour of the auction purchaser on 5.3.2022. The delivery of possession under Order 21 Rule 95 of code of Civil Procedure is based on the confirmation of the sale. Since the entire mistake is at the instance of the Court, the act of the Court should



not injure the litigant.

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20. For the reasonings aforesaid, these two Civil Revision Petitions are disposed of with the following directions:

(i) The claimant shall reconstruct E.A.No.38 of 2009, together with documents by 6.4.2026;

(ii) The decree-holder shall file his counter to E.A.No.38 of 2009 on or before 15.4.2026;

(iii) The claimant shall enter the witness box on 20.04.2026;

(iv) The learned Subordinate Judge shall give utmost priority to this case, as the parties have been litigating over their rights from the year 2006. The auction purchaser has also deposited the amount and his rights are in a limbo;

(v) The learned Subordinate Judge shall give at least two effect hearings per week in E.A.No.38 of 2009. He shall dispose of the same on or before 25.6.2026. He shall submit a report of compliance together with the order copy in E.A.No.38 of 2009 by 29.6.2026.



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(vi)The order of delivery passed in E.A.No.1 of 2022 on 7.11.2024 shall not be given effect to till the disposal of E.A.No.38 of 2009.

(vii)Depending upon the orders passed in E.A.No.38 of 2009, appropriate orders will be passed in E.A.No.1 of 2022.

(viii)As the revisions have been disposed of on technical point, the claimant/revision petitioner shall pay a sum of Rs. 10,000/- (Rupees ten thousand only) towards costs to the decree holder, before E.A.No.38 of 2009 is taken up for disposal;

(ix)The learned Subordinate Judge need not wait for the certified copy of this order. He shall act on the web copy of this order.

(x)No costs. Consequently, connected Miscellaneous Petitions are closed.

24.03.2026

NCS : Yes/No

Index : Yes / No

Internet : Yes / No

vsn

Note: The Court Manager shall ensure that the web-copy of this order is communicated to the learned Single Judge, Sankarankovil.



To

The Subordinate Judge,
Sankarankovil.

Copy to

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

V.LAKSHMINARAYANAN.,J.

vsn



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COMMON ORDER MADE IN

C.R.P(MD)Nos.596 of 2026
and 3247 of 2024

and

C.M.P(MD)Nos.2773 of 2026
and 18724 of 2024

24.03.2026