



C.M.A(MD).No.656 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD) No.656 of 2026
and C.M.P(MD) No. 6772 of 2026

Rajendran : Appellant

Vs

1.Sankaranarayanan

2.C.Vijaya

3.C.Periyathambi

4.Vallimayil

5.Anandhi : Respondents

(respondents 2 to 5 set ex-parte
in the lower Court proceedings)

Prayer : Civil Miscellaneous Appeal filed under Order XXI Rule 103 r/w Section 96 of the Civil Procedure Code, against the Ex. And fair order, dated 09.03.2026 passed in E.A.No.13 of 2022 in E.A.No.2 of 2019 in E.P.No.147 of 2010 on the file of the Additional District Court (FTC) Theni.

For Appellant : Mr.T.N.Bharath Nachiappan,

For Respondents : No Appearance, for R1.



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ORDER

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The Civil Miscellaneous Appeal is directed against the order passed in E.A.No.13 of 2022 in E.A.No.2 of 2019 in E.P.No.147 of 2010, dated 09.03.2026, on the file of the Additional District Court (FTC) Theni, dismissing the petition filed under Order 21 Rule 97 of C.P.C.

2. The first respondent filed a suit for specific performance against the other respondents and the suit was decreed. Challenging the same, the judgment debtor has preferred an appeal and after the dismissal of the same, filed SLP and the same came to be dismissed. The decree holder has then laid the execution for taking delivery and pending E.P., the petitioner claiming to be a cultivating tenant filed an application under Order 21 Rule 97 of C.P.C., and according to him, he entered into an agreement with the judgment debtor and on that basis, he has been in possession and enjoyment of the same.

3. It is evident from the records that except the alleged agreement, dated 03.04.2004 and photographs, the third party petitioner has not produced any *iota* of evidence to show that he is the cultivating tenant and he has been in possession and enjoyment of the property from 2004.



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WEB COPY 4. A cursory perusal of the records would reveal that the petitioner, at the instance of the judgment debtor, has set up a case of cultivating tenancy and filed the obstruction petition and thereby preventing the decree holder from realizing the fruits of the decree. Since the petitioner has not proved that he is the cultivating tenant, the Executing Court has rightly dismissed the petition and as such, the same cannot be found fault with. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

5. In the result, the Civil Miscellaneous appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

09.06.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

DAS

To

1.The Additional District Court (FTC)
Theni.

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

Order made in
C.M.A(MD) No.656 of 2026
and C.M.P(MD) No. 6772 of 2026

09.06.2026