



C.R.P. (MD) No. 1734 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2026

CORAM

THE HON'BLE MR. JUSTICE **N.SENTHILKUMAR**

C.R.P.(MD)No.1734 of 2022

and

C.M.P.(MD)No.7608 of 2022

Immanuel

... Petitioner

-VS-

1. R.Ganesa Pandian

2. The Inspector of Police,
Pudukottai Police Station,
Tuticorin.

3. The District Collector,
Korampallam, Tuticorin District.

...Respondents

(No relief is claimed against respondent Nos.2 and 3
hence, notice may be dispensed with)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal Order, dated 08.07.2022, in I.A.No.2 of 2021 in O.S.No.90 of 2019 on the file of the Additional District Munsif Court, Tuticorin.

For Petitioner : Mr. G.Prabhu Rajadurai
For R-1 : Mr. B.N. Raja Mohammed



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ORDER

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This Civil Revision Petition invoking under Article 227 of the Constitution of India has been preferred against the order, dated 08.07.2022 made in I.A.No.2 of 2021 in O.S.No.90 of 2019 on the file of the Additional District Munsif Court, Tuticorin, filed by the first defendant, seeking to frame preliminary issue which has been rejected.

2.The parties are hereinafter referred to as by the description in the suit in O.S.No.90 of 2019 before the Trial Court for the sake of clarity and convenience.

3.Heard Mr. G.Prabhu Rajadurai, learned Counsel for the first defendant and Mr.B.N.Raja Mohammed, learned Counsel for the Plaintiff and perused the materials placed on record apart from the pleadings of the parties.

4.It is the case of the plaintiff viz., R.Ganesa Pandian that he had paid a sum of Rs.2,00,000/- to the first defendant and was having possession of the property and before executing the sale deed, the balance sale consideration of Rs.4,00,000/- has to be paid for which the first defendant, who was the owner of the vehicle, himself undertook to arrange for financial assistance to the



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plaintiff for purchasing the said vehicle. In that background, the suit was filed that the first defendant should not disturb the possession of the vehicle with the assistance of the second defendant.

5.It is the contention of the plaintiff in the suit that the vehicle bearing Registration No.TN-69-AC-5447 is in his possession and that the first defendant with the assistance of the second defendant should not disturb the said possession without following due process of law.

6.It is the case of the second defendant that there was no such agreement between the parties and the vehicle had been entrusted with the first defendant through the plaintiff only for the purpose of repair which would be a bailment, and after service has been completed, the vehicle ought to have been returned, but the same has not been returned.

7.It is brought to the notice of this Court that subsequent to the filing of the suit, the first defendant had lodged a complaint towards the second defendant who had investigated the matter and the second defendant had taken possession of the vehicle from the plaintiff.



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8. According to the learned Counsel appearing for the first defendant, during the investigation, it was found that the registration number and Chassis number of the vehicle had been changed and hence, the vehicle was taken under custody and by an order dated 12.11.2019 in Cr.M.P.No.11595 of 2019, the learned Judicial Magistrate No.III, Thoothukudi, directed the second defendant to hand over the vehicle to the first defendant on condition that he should not use the vehicle in the road which continues to be in force. In the meanwhile, the present application had been filed to decide the preliminary issue as to maintainability of the suit.

9. It is evidenced that it is only on account of the subsequent events that the possession of maintainability has been raised by the first defendant. Rule 2 of Order XIV CPC provides that all these issues arising in the suit have to be determined only at the time of trial except in two contingencies, viz., when the matters relating to the jurisdiction of the Court or where it is barred by law. None of the two situations falls for consideration in the present case as to be reflected from the said facts of the case. However, the question arises that in view of the subsequent event, it is not necessary for trial to proceed as the possession of the vehicle had been given to the first defendant from the plaintiff



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through the second defendant by following due process of law. As such the relief sought in the Plaint did not survive for consideration.

10.The learned Counsel for the Plaintiff accepts the said actual possession of the subsequent event, but, however deserves the rights of the plaintiff to work out his remedy against the orders passed by the Criminal Court in the manner known to law. The said submission is recorded.

11.In view of the subsequent event, this Court in exercise of the preliminary powers under Article 227 of the Constitution of India in order to avoid there is an abortive and meaningless decision did not proceed further and this Court directs the suit to be struck off from the file of the trial Court.

12.With the aforesaid clarification, the Civil Revision Petition is disposed on the aforesaid terms. Consequently, the connected miscellaneous petition is closed. No costs.

20.01.2026

Index : Yes/No
Internet : Yes/No
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N.SENTHILKUMAR, J.

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