



W.A.(MD)No.66 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **24.03.2026**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.66 of 2026
and C.M.P.(MD)No.764 of 2026

R.Sethu

... Appellant

Vs.

1. S.Nallathambi

2. Inspector General of Police,
Southern Region,
No.1, New Natham Road,
Bibikulam, Madurai 625 002.

3. Deputy Superintendent of Police,
Office of the Deputy Superintendent
of Police, Melur,
Madurai District - 625 006.

4. The Sub Inspector of Police,
Melavalavu Police Station,
Melur, Madurai 625 105.

....Respondents

PRAYER:- Writ Appeal – filed under Clause 15 of the Letters Patent,
against the order passed by this Court in W.P.(Crl)(MD)No.2616 of 2025,
dated 16.12.2025.



W.A.(MD)No.66 of 2026

For Appellant : Mr.D.Rajagopal

For Respondents : Mr.P.Subbiah, Senior Counsel
for Ms.P.Jessi Jeeva Priya for R1
Mr.K.Sanjai Gandhi,
Govt. Advocate for R2 to R4

COMMON JUDGMENT

(Judgment of the Court was delivered by **N.SATHISH KUMAR, J.**)

This Writ Appeal has been filed challenging the order of the Writ Court in W.P.(CrI)(MD)No.2616 of 2025, dated 16.12.2025, directing the appellant to hand over possession to the first respondent.

2. The learned counsel appearing for the appellant would submit that a second appeal in S.A. (MD) No. 1245 of 2011 is pending, and during the pendency of the second appeal, a Writ Petition has also been filed seeking police protection and possession from the appellant.

3. At the outset, we are of the view that when a second appeal is already pending between the parties, entertaining the Writ Petition with regard to possession is not maintainable. Even assuming that any dispossession has occurred during the pendency of the second appeal, the proper remedy for the parties is to file the necessary application



W.A.(MD)No.66 of 2026

immediately in the pending second appeal. Parallel writ jurisdiction cannot be exercised as a matter of right. The mere filing of an affidavit does not justify intervention by the Writ Court. Hence, we are of the view that entertaining the Writ Petition is not maintainable and the order passed therein cannot be sustained in the eye of law.

4. In view of the above, since the Second Appeal in S.A.(MD) No.1245 of 2011 between the parties is pending, any alleged dispossession can be addressed by this Court while deciding the appeal, and restitution may be ordered, if the Court is satisfied. Admittedly, the suit was originally filed for declaration and possession. The appellant now claims to be a subsequent purchaser and having purchased the subject property, during the pendency of the suit, took possession in the year 2022. We are of the view that whether he has been in possession since 2022 is a matter of evidence, as his predecessor in title never asserted that they are in possession of the property. In fact, the suit itself is filed for declaration and recovery of possession. Therefore, the claim of the appellant's possession from 2022 is to be independently established. Hence, the order of the learned Single Judge is liable to be set aside.



W.A.(MD)No.66 of 2026

5. Accordingly, the order passed in the Writ Petition dated 16.12.2025 is set aside. The parties are relegated to adjudicate their issues in the pending Second Appeal. We request the learned Single Judge, who is holding the roster, to expedite the matter and decide the issues, including any alleged dispossession, taking into account the long pendency of the second appeal and the nature of the criminal cases pending against each of the parties.

6. With the above directions, this Writ Appeal is disposed of. The Registry is directed to list the second appeal before the concerned portfolio judge within a week. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[N.S.K., J.] & [M.J.R., J.]
24.03.2026

Index :Yes/No
NCC :Yes/No
vsm



W.A.(MD)No.66 of 2026

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W.A.(MD)No.66 of 2026

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