



C.R.P.(PD)(MD)No.1192 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.07.2026

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.(PD)(MD)No.1192 of 2026

and

C.M.P.(MD)No.5716 of 2026

1.Thangapandi
2.Balamanikandan
3.Murugan
4.Muthukrishnan

... Petitioners

Vs

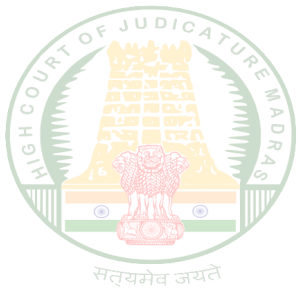
Asaithambi

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair order passed by the Trial Court in E.A. No. 5/2026 in E.P.No. 37/2024 in O.S.No. 33/2007 dated 09.02.2026 on the file of Principal District Munsif Court, Tenkasi.

For Petitioners : Mr.T.Selvan

For Respondent : Mr.P.P.Alwin Balan



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking dismissal of the main Execution Petition filed by the respondent.

2. The respondent herein filed a suit for bare injunction against the petitioners in O.S.No.33 of 2007 and the said suit was decreed, after contest on 20.04.2017. Thereafter the respondent herein filed an Execution Petition in E.P.No.37 of 2024, complaining violation of the decree for injunction by the petitioners. According to the respondent, the petitioners encroached a portion of the suit item No.5, common pathway and put up construction and hence, EP was filed for arrest of the petitioners.

3. The instant application has been filed by the petitioners on the ground that the respondent failed to give the correct survey number of the 5th schedule property. It is also stated that in the original suit, 5th schedule property was found to be situated in S.No.382/6. However, in the Advocate Commissioner's report filed in the execution



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petition, 5th schedule property is found to be situated in S.No.382/7 also.

In view of the said discrepancy, the decree passed by the trial Court cannot be executed. It is also stated that petitioners have not violated the decree for injunction by putting up any construction in the 5th schedule property.

4. Whether the petitioners had committed violation of the decree for injunction by putting up construction in a portion of the 5th schedule property is a matter to be decided based on evidence. The said point cannot be decided only based on the averments by the petitioners in this petition. It is seen from the description of the property found in the decree for injunction, the 5th schedule property was described to be situate in S.No.382 in Keelakadaiyam Village, Ambasamudram Taluk. The boundaries of the 5th schedule property was also mentioned apart from North-South and East-West measurements. Therefore, the question to be decided in the main EP is whether the petitioners encroached the portion of the 5th schedule property as described in the decree and whether there is a violation of the decree for injunction in respect of the 5th schedule of the suit property. Merely because, the respondent has not mentioned the subdivision of the properties, we cannot come to the



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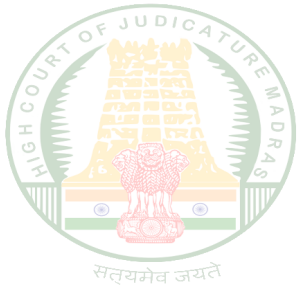
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conclusion that the decree has become in-executable. The 5th schedule property has been described with boundaries and linear measurements. Therefore, there may not be any difficulty in locating the 5th schedule property and the Executing Court after locating the 5th schedule property based on the description found in the decree has to see whether there is any violation of decree for injunction. The present application filed by the petitioners cannot be decided only based on the averments of the parties and it has to be decided based on the local visit and other evidence regarding the alleged violation.

5. In view of the same, I do not find anything to interfere with the impugned order passed by the Executing Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2026

NCC : Yes / No
Index : Yes / No
vsm



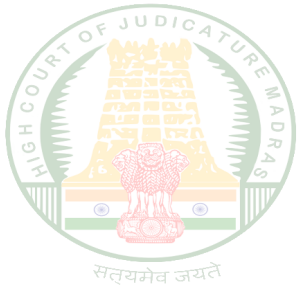
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To

1. The Principal District Munsif Court, Tenkasi.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

vsm

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