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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.03.2025

Delivered on : 30.05.2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.1246 of 2025
and
CMP. No.7495 of 2025

1. J.Jeyalakshmi
2. A.Mohan
3. A.Arumugam
4. Janakiraman

... Petitioners

Versus

1. Tmt.Lingiammal
2. C.S.Senthilkumar
3. Sharmila Rani
4. C.S.Ramakrishnan
5. Ravichandran C.S.
6. C.S.Vijayalakshmi
7. Vellingiri C.S.
8. Smt.Leelavathi
9. Premkumar R.
10. R.Valli
11. R.Sundaram

C.A.Vellingiri (died)
C.A.Arumugam (died)

12. Shanthi
13. Saravanakumar
14. Uma Maheshwari
15. Bhuvaneshwari
16. Shanthamani
17. Parameswari
18. Rani

... Respondents

Civil Revision Petition filed under Section 115 of The Code of Civil



Procedure, 1908 seeking to set aside the order dated 18.11.2024 made in E.A.No.4 of 2024 in E.P.No.151 of 2021 in O.S.No.607 of 2012 on the file of I Additional District Judge, Coimbatore.

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For Petitioners : M/s.C.Deivasigamani

For RR1 to 7, 9 to 15
17 and 18 : M/s.L.Mouli

ORDER

The present civil revision petition has been filed to set aside the order dated 18.11.2024 made in E.A.No.4 of 2024 in E.P.No.151 of 2021 in O.S.No.607 of 2012 on the file of I Additional District Judge at Coimbatore dismissing the application seeking direction to produce additional documents.

2. Brief facts of the case are as follows :

i) The petitioners are Judgment Debtors 3, 5, 6, and 45 in E.P.No.151 of 2021 and defendants in O.S.No.607 of 2012 on the file of I Additional District Court, Coimbatore. The suit filed being one for partition, the preliminary decree was passed on 06.01.2014 and final decree was passed on 05.10.2018.

ii) The respondents had filed E.P. No. 151 of 2021 in which the petitioners have filed E.A.No.4 of 2024 under Section 151 read with Order 11, Rule 12 of CPC seeking for production of documents. The Respondents had filed a detailed counter, mainly contending that the said petition was filed only to protract the proceedings.

iii) The Executing Court, finding that the documents sought to be produced are of the year 2012 and 2014 and that no explanation had been



given by the petitioners for not obtaining those documents in all these years and that the petition was not maintainable at the stage of execution, had dismissed the application, against which, the present revision has been filed.

3. Mr. C.Deivasigamani, learned counsel appearing for the petitioners would submit that the documents sought to be called for are necessary to prove the case of the petitioners and for effectively deciding the Execution Proceedings and if a chance is not given to the petitioners, it would cause injustice to the petitioners and therefore, seeks to set aside the impugned order.

4. Per contra Mr.Mouli, learned counsel appearing for the respondents would, at the outset, submit that a petition under Order 11 Rule 12 shall not be maintainable at the stage of Execution Proceedings. He would further submit that the suit filed for the relief of partition against more than 40 persons is of the year 2012, wherein, a preliminary decree was passed on 06.01.2014, the final decree was passed on 05.10.2018 and the Execution Petition filed therein is of the year 2021. While so, the present E.A.No.4 of 2024 has been filed by some of the judgment debtors seeking permission for production of certain documents, after such a long passage time without furnishing any valid reason or explanation for the delay in not taking any steps to secure and produce those documents and thus, the Executing court, rightly finding that the petition is not maintainable, had dismissed the same and thereby would seek for

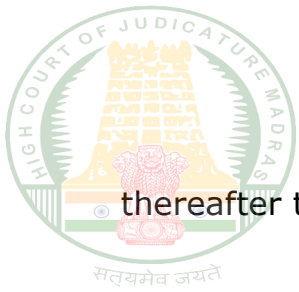


dismissal of the civil revision petition.

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5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. An analysis of the entire facts and circumstances of the case including the copies of the documents produced before this Court, prima facie, reveals that the documents sought to be produced are (i) Judgment Copy in O.S.No.100 of 2012; (ii) Appeal Memorandum in A.S.No.94 of 2014; and (iii) Tax Receipt in respect of T.S.No.8/575. Admittedly, the documents sought to be produced are of the year 2012 and 2014. The preliminary decree in the suit was passed on 06.01.2014 and the final decree was passed on 5.10.2018. The Execution Petition was filed in the year 2021. While so, the Application under Order XI Rule 12 CPC for production of documents had been filed in the year 2024. No valid reason or explanation has been stated by the petitioners about the necessity or relevancy of those documents for deciding the execution petition. Further no valid explanation was given by the petitioners for not taking any steps to obtain those documents for all these years when they are of the years 2012 and 2014. Further, in this case, after the execution petition was filed, the encroachers in the property had vacated and the decree holder had already taken possession. Only at the time when the possession receipt was filed in the court for recording delivery of possession, the petitioners had filed E.A.No.3 of 2024 to reopen the EP to putforth their arguments and



thereafter the present petition in E.A.No.4 of 2024 had been filed.

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7. For the sake of convenience, Order XI Rule 12 of CPC is extracted hereunder :

"ORDER XI - Discovery and Inspection

12. Application for discovery of documents.—Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oaths, of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion be thought fit;

Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs."

8. A bare reading of the above provision makes it clear that the petition under Order XI Rule 12 of CPC can be used during the trial stage to obtain information from the other party and the rule is designed to facilitate the discovery of relevant documents during trial to ensure a fair and just outcome



of the case. It is a settled principle of law that an executing court cannot go beyond the terms of the decree. The Trial Court, rightly finding that the petition was belatedly filed only to protract the proceedings and also finding that no reasons had been attributed by the petitioners for the delay in obtaining those documents, had dismissed the application as not maintainable and it does not warrant any interference by this court.

9. In the result, the civil revision petition lacks merits and is liable to be dismissed. Accordingly, it is dismissed. No Costs. The connected miscellaneous petition is also dismissed.

30.05.2025

Index: Yes/No
Internet: Yes/No
ssk.

To

I Additional District Judge,
Coimbatore.



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A.D.JAGADISH CHANDIRA, J.

ssk.

**P.D. JUDGMENT IN
CRP No. 1246 of 2025**

**Delivered on
30.05.2025.**