



WEB COPY



CRP No. 3862 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 13-07-2026**

CORAM

**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**CRP No. 3862 of 2026**

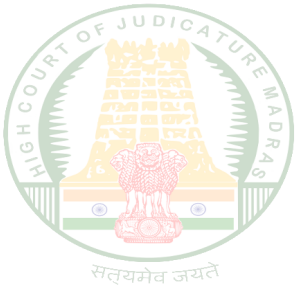
1. R.Eswari  
W/o. Ganeshan, D.No.1/3B, Eswari  
Nelaiyum, Sri Guru Nagar, Periyapatti  
Road, Santhaipettai Pudhur, Namakkal  
Town and Taluk, Namakkal District 637  
001.

Petitioner(s)

Vs

1. Raj Kumar  
S/o. Nalliyappan, Kottai Main Road,  
Namakkal Town and Taluk, Namakkal  
District 637 001.  
2.Kannagi  
S/o. Rajkumar, Kottai Main Road,  
Namakkal Town and Taluk, Namakkal  
District 637 001.

Respondent(s)



CRP No. 3862 of 2024

WEB COPY

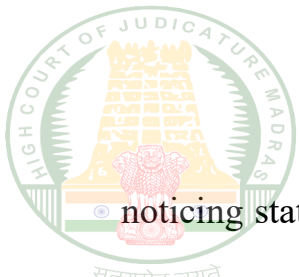
Revision Petition filed under Article 227 of Constitution of India to direct Principal District Munsif Court, Namakkal to entertain and number the Execution Petition in EP filing No.472 of 2024 and decide the same on merits.

For Petitioner(s): R.Prabakar

### **ORDER**

The revision petitioner is the decree holder whose Execution Petition has been returned several times despite being represented and also the counsel for the petitioner having made an endorsement for posting the matter in open Court for hearing the matter on maintainability of the Execution Petition.

2. Learned counsel for the petitioner states that the present revision petitioner who has filed the Execution Petition is a successor in interest being a transferee from the original plaintiff, who holds a decree in his/her favour. Learned counsel relies on Section 146 of Civil Procedure Code which permits proceedings to be initiated or taken by or against any person against whom the person is claiming under. Similarly, Order 21 Rule 16 of Civil Procedure Code also enables a successor in interest to step into the shoes of the decree holders and seek for execution. The executing Court, without



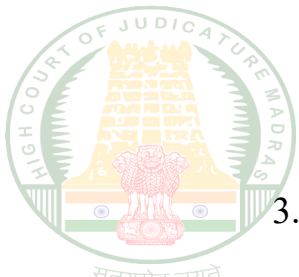
CRP No. 3862 of 2020

WEB COPY

noticing statutory provisions, has returned the application filed by the petitioner, who is the transferee *pendente lite*. Atleast when the counsel had made an endorsement that the matter can be called in open Court for hearing the counsel on the maintainability of the Execution Petition, the Executing Court, following the decision of this Court in ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd*** reported in **2021 4 CTC 539**, ought to have posted the matter in the open Court and heard the arguments of the counsel for the Decree Holder. Without following the ratio laid down by this Court in the above case, laying down various guidelines for hearing and numbering applications including Execution Applications at the stage of filing/maintainability, the Executing Court has returned the Execution Petition on 28.04.2025 for the following reasons:-

“28.04.2025

*Returned 03.02.2025. This EP is not filed within 12 years Hence returned. Returned 28.02.2025.1.Suit filed declaration and permanent injunction.2.Declaration prayer was only allowed in this suit.3.Permanent Injunction prayer was dismissed.4.Hence this execution petition not filed within 12 years.5.No limitation period only applicable in permanent injunction. Hence petition return. Time one month Returned 28.03.2025.Amended Decree to be filed along with petition.(i.e.,Permanent Injunction prayer).Hence petition returned Time one month.”*



CRP No. 3862 of 2020

3. Learned counsel for the revision petitioner states that the decree being for injunction, the cause of action continues and as and when there is disobedience, it is open to the petitioner, including the transferee of the original plaintiff to initiate execution proceedings.

4. I find force in the submissions of the learned counsel for the revision petitioner.

5. The executing Court ought not to have repeatedly returned the execution application and instead, should have followed the ratio laid down in ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd*** reported in **2021 4 CTC 539**.

6. In the light of the above, I am inclined to remit the matter to Principal District Munsif, Namakkal.

7. Accordingly, the matter is remitted to Principal District Munsif, Namakkal to post the matter in open Court for hearing the counsel for the petitioner/decreed holder on the maintainability of the Execution Petition and thereafter pass orders on



CRP No. 3862 of 2020

WEB COPY

maintainability within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the civil revision petition is disposed of. No costs.

13.07.2026

sr

Index:yes/no

Website:yes/no

Speaking Order/Non-Speaking Order

To

The Principal District Munsif Court, Namakkal



WEB COPY



CRP No. 3862 of 2026

P.B.BALAJI.,J

sr

CRP No. 3862 of 2026

13.07.2026