



C.M.A(MD)No.987 of 2026

EFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.08.2026

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

C.M.A(MD)No.987 of 2026  
and  
C.M.P(MD)No.10348 of 2026

Bavani

: Appellant

Vs.

1.Ramasubbu

2.Vanaja

3.Sankarasubramaniam

: Respondents

**PRAYER:-** Civil Miscellaneous Appeal filed under Order 21 Rule 58(4) of C.P.C., against the fair and decreetal order, dated 18.06.2026 order passed in E.A.No.6 of 2025 in E.P.No.15 of 2020 in O.S.No.84 of 2016 on the file of the Additional District and Sessions Court, Virudhunagar District at Srivilliputhur.

For Appellant : Mr.H.Arumugam

### **J U D G M E N T**

The Civil Miscellaneous Appeal is directed against the fair and decreetal order, dated 18.06.2026 passed in E.A.No.6 of 2025 in E.P.No.15



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of 2020 in O.S.No.84 of 2016 on the file of the Additional District and Sessions Court, Virudhunagar District at Srivilliputhur, dismissing the petition filed under Section 47 of C.P.C.

2. The learned Judge, Executing Court has specifically observed that though the petition was filed under Section 47 of the C.P.C., it is a claim petition under Order XXI, Rule 58 of C.P.C, and on that basis, proceeded with the enquiry.

3. It is not in dispute that the third respondent executed a mortgage deed on behalf of the second respondent-mother in favour of the first respondent and since the mortgage debt was not repaid, the first respondent filed a suit in O.S.No.84 of 2026 and preliminary decree came to be passed; that since the preliminary decree was not complied with, the first respondent has initiated the final decree proceedings and obtained final decree and that subsequently, for execution of final decree, execution petition was filed and the same is pending.



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4. During the pendency of the execution proceedings, the daughter of the second respondent filed a claim petition alleging that the property is a joint family ancestral property and that she is entitled to 1/4th share therein. The Executing Court, taking note of the specific admission made by the petitioner herself, held that the property originally belonged to Sankaramoorthy Naidu, that K.P. Tirumalai was his adopted son and that the said K.P. Tirumalai alone inherited the property.

5. Moreover, the Executing Court has extracted the cross examination evidence of P.W.1, “ நான் தாக்கல் செய்துள்ள சாட்சிய பிரமாண பத்திரிக்கையில் குடும்பத்தில் பாத்தியப்பட்ட அனைத்து சொத்துக்களையும் என் தகப்பனாருக்கு தனித்து பாத்தியப்பட்டது என்று சொல்லி அவர் கிரையம் மேற்கொண்டுள்ளார் என்று நான் சொல்லியுள்ளேன் என்றால் சரிதான். அந்த கிரையதாரர்கள் மீது நான் எந்த வழக்கும் தாக்கல் செய்யவில்லை என்றால் சரிதான். இந்த மனுவில் கண்டுள்ள சொத்தானது என் தகப்பனாருக்கு தனித்து பாத்தியப்பட்ட சொத்து என்பதால் அதனை அவர் என் தாயாருக்கு செட்டில்மென்ட் ஆவணம் மூலமாக எழுதிக்கொடுப்பதற்கு அவருக்கு உரிமை உள்ளது என்றால் சரிதான். எனவே என் தாயார் பெயரிலான செட்டில்மென்ட் ஆவணம் சட்டப்படி செல்லும் என்றால் சரிதான்”.



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6. The Executing Court, considering the entire evidence has come to the conclusion that the petitioner, in collusion with the mother-third respondent has filed the above claim petition, only to prevent the decree holder from realizing the fruits of the decree and also, held that the petitioner is not entitled to get  $\frac{1}{4}$  share and on that basis, dismissed the petition.

7. Considering the above, the impugned order dismissing the petition is perfectly in order and the same cannot be found fault with. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

8. In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

**06.08.2026**

NCC : Yes/No

Index : Yes/No

Internet : Yes/No  
das



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To

1. Additional District and Sessions Court,  
Virudhunagar District at Srivilliputhur.
2. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

das

Order made in  
C.M.A(MD)No.987 of 2026  
and  
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