

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.428 OF 2015

1.K.V.Sivaprakasam  
2.K.V.Gopi

... Petitioners

**Vs.**

1.K.R.Kannaiah Naidu  
2.K.Govindan

... Respondents

**PRAYER:** Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 28.08.2014 in E.P.No.... of 2014 in O.S.No.121 of 2000 on the file of the Subordinate Court, Gudiyatham, Vellore District.

For Petitioners : Mr.C.V.Vijayakumar

**ORDER**

This Civil Revision Petition is directed against the order dated 28.08.2014 passed in E.P.No.... of 2014 in O.S.No.121 of 2000 by the learned Subordinate Judge, Gudiyatham, Vellore District.

2.The petitioner is the decree holder in the suit in O.S.No.121 of 2000 filed against the respondents for recovery of money. The suit was decreed on 09.04.2002.

3.Based on the decree, the petitioners laid an execution petition on 05.04.2014 for recovery of the decree amount. The Executing Court dismissed the execution petition holding that the decree holder has represented the execution petition, without complying the earlier returns, vide order dated 28.08.2014. Aggrieved by the order, the present Civil Revision Petition is filed.

4.Mr.C.V.Vijayakumar, learned counsel for the petitioners has submitted that the decree holder can be given an opportunity to represent the execution petition, after complying the returns. It is further submitted that the decree holder cannot file new execution petition due to the expiry of the limitation.

5.Considering the submissions of the learned counsel for the petitioners, the impugned order is liable to be set aside. Accordingly, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed. The petitioners shall represent the execution petition within a period of two weeks from the date of receipt of a copy of this order. On such

compliance, the Sub Court, Gudiyatham, Vellore District, shall dispose of the execution petition, on merits and in accordance with law, as expeditiously as possible. No costs.

**10.02.2015**

Index : Yes/No  
Internet : Yes/No  
TK

To

The Sub Court  
Gudiyatham.  
Vellore District.

K.KALYANASUNDARAM, J.

TK

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