



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 06.08.2018  
CORAM :  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.863 of 2017 (NPD)

WEB COPY

- 1.Rajayyan @ Thankappan
- 2.Vargheesh
- 3.Thangaraj @ Varuvel
- 4.N.Rengaswamy
- 5.N.Ramasamy
- 6.Gnanammal
- 7.Devadas
- 8.V.Thangaswamy Nadar

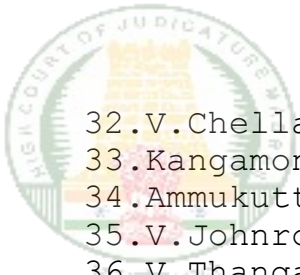
...Petitioners

Vs.

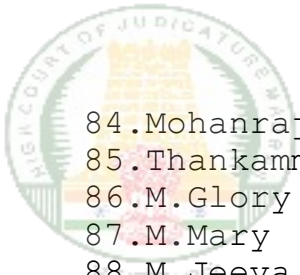
- 1.Mary
- 2.Pushpam
- 3.Lilly Bai
- 4.Stella Bai
- 5.Aji
- 6.Suji
- 7.C.Russelraj
- 8.C.Kanagaraaj
- 9.Swarnamma
- 10.Franklin
- 11.Jebacilin
- 12.Francilin
- 13.E.Stanly
- 14.Bethasa Kumari Lalitha
- 15.E.Mallika Preetha Kumari
- 16.K.Muthaiyan
- 17.Muthamma

- 18.State rep.by  
The District Collector,  
Kanyakumari District at Nagercoil.

- 19.V.Thankaraj
- 20.V.Thangappan
- 21.T.Krishnan Kutty
- 22.Nagappan
- 23.Suganathan
- 24.Sobana Bai
- 25.Selvaraj
- 26.Kanagaraaj
- 27.C.Chinnathambi
- 28.C.Raghavan
- 29.R.Jeyan
- 30.Thangaraj
- 31.Gunamoni



- 32.V.Chellaswamy
- 33.Kangamoni
- 34.Ammukutti @ Mary
- 35.V.Johnrose
- 36.V.Thangaraj
- 37.V.Thanislal
- 38.Panguthanthai Stenislal
- 39.Daicy
- 40.Gowri
- 41.Baskaran
- 42.Muthiyyan
- 43.Sugumaran
- 44.Thangaraj @ Varuvel
- 45.Natarajan
- 46.Kamal Anand Kothari
- 47.Francis
- 48.Shobi
- 49.Pushparaj
- 50.Natarajan
- 51.V.C.Kushlal
- 52.V.C.Rajaram
- 53.G.Reckslin Jikki
- 54.C.Shali
- 55.P.Kochupillai
- 56.P.Rajayyan
- 57.Baby
- 58.Rengabai
- 59.K.D.Omana
- 60.A.Kumaradhas
- 61.A.Gnanadhas
- 62.P.Pushpam
- 63.P.Kanakaleela
- 64.Rajammal
- 65.G.Robinson
- 66.G.Livingston
- 67.N.Selvadhas
- 68.Parish Priest
- 69.Davidraj
- 70.Murugan
- 71.Vijayamma
- 72.Selvi
- 73..Rajasekhar
- 74.Subitha
- 75.Subashini
- 76.Suni
- 77.C.Pushpam
- 78.Sobi @ Sobidhas
- 79.Victoria
- 80.Rema
- 81.Minor Adhira
- 82.Gnanaselvi
- 83.Suganthi



- 84.Mohanraj
- 85.Thankammal
- 86.M.Glory
- 87.M.Mary
- 88.M.Jeeva
- 89.Ammukutty Appavu
- 90.Vasanthakumari
- 91.Nirmala
- 92.Siyamala
- 93.Rosammal @ Kamalachi
- 94.Thangaraj
- 95.Selvaraj
- 96.Kanagaraj
- 97.Jeyaraj
- 98.Suseela
- 99.Evlin
- 100.Swarnammal
- 101.Gilda
- 102.TATA
- 103.Harikumar
- 104.Sivakumar
- 105.Ponnu
- 106.Roby
- 107.Omana
- 108.Soman
- 109.Lalitha
- 110.Prema
- 111.Suseela
- 112.Suresh
- 113.P.Satheesh
- 114.R.Mahesh
- 115.Gnanaselvam Chellaiyan
- 116.C.Sasikumar
- 117.C.Vinukumar
- 118.C.Vijitha
- 119.C.Sunitha
- 120.T.Beula Jasmin
- 121.T.Mohan
- 122.Valliyammal
- 123.Lilly
- 124.Vijaya
- 125.Tharmaraj
- 126.Sarojini
- 127.Selvaraj
- 128.Paulraj
- 129.Kanagaraj
- 130.Kanagaleela
- 131.Dhas
- 132.Thomas
- 133.Sudha
- 134.Gnanapoo
- 135.Jenet



136.Rethinasamy  
137.Baby  
138.Thankaraj  
139.Paulraj

... Respondents

**PRAYER :** Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 23.02.2017 in EP.No.10 of 2016 in O.S.No.484 of 1961 and consequently direct the Principal District Munsif, Kuzhithurai to restore the said E.P.No.10 of 2016 to file and dispose it of in 3 months in accordance with law.

For Petitioners : Mr.T.S.R.Venkatramana

For Respondents : Mr.M.P.Senthil for RR2, 4 to 6

Mr.S.Palani Velayutham for R7

R1 & R3 - No appearance

R8 to R11 - No appearance

R12 to R 139 Given up (vide EB)

#### **ORDER**

The revision petitioners herein filed EP No.10 of 2016 before the learned Principal District Munsif, Kuzhithurai. The E.P was filed to enforce the final decree in a suit that was filed way back in the year 1961. The preliminary decree was passed in O.S.No.484 of 1961 on 07.05.1971. Final decree came to be passed on 30.03.2013. The revision petitioners herein waited for 1 ½ years and thereafter, filed an execution petition. The same was not numbered. Therefore, for numbering the E.P, the first petitioner herein had to file CRP (MD)No.2542 of 2015 (NPD). The said CRP came to be allowed by this Court on 25.11.2015 in the following terms :

"15.Keeping in view of the above facts, it is thus made clear that the respondents against whom the execution application is filed are bound by decree. The petitioners have also filed the execution petition seeking delivery of possession as against the present respondents and they do not want to execute the decree against the remaining defendants in which, the executing court shall not compel the petitioner to include the other defendants against whom they do not want to execute the decree.

16.Keeping in view of the above facts, this Civil Revision Petition is allowed and the learned Principal District Munsif, Kuzhithurai is directed to execute jurisdiction vested on him and number the unnumbered E.P in O.S.No.484 of 1961 and dispose of the same in accordance with law as expeditiously as possible, as the



suit is relating to the year 1961. However, there shall be no order as to costs."

2. In terms of the direction given by this Court, E.P came to be numbered as E.P.No.10 of 2016. But, before the matter could take off, an objection was lodged to the effect that AS No.29 of 2015 had been filed questioned the final decree in O.S.No.484 of 1961 and the same was still pending.

3. The revision petitioners pointed out that the second respondent herein namely, Pushpam did not prefer any appeal and that therefore, the disposal of the said First Appeal will not cast any shadow on the present execution petition. But then, the executing court strangely chose to close the E.P with liberty to file a fresh E.P after the outcome of AS.No.29 of 2015.

4. This Court cannot appreciate the approach of the learned executing court. The only question that the executing court must have posed was whether there was any order staying the execution proceedings. If there was no order staying the execution proceedings, the only course open to executing court is to proceed ahead with the matter. Instead, it choose to close the E.P by merely advertng to the pendency of A.S.No.29 of 2015. It did not even consider the objection of the revision petitioners that the outcome of A.S.No.29 of 2015 would be irrelevant to the execution proceedings. This Court is of the view that the approach of the court is misconceived and clearly erroneous in law.

5. In this view of the matter, the order impugned in this Civil Revision Petition, namely, order dated 23.02.2017 closing E.P No.10 of 2016 on the file of the learned Principal District Munsif, Kuzhithurai stands set aside. E.P.No.10 of 2016 will stand restored to the file of the executing court. The learned counsel for the revision petitioners submits that the first revision petitioner is a senior citizen. Therefore, the executing court shall dispose of the E.P by taking it up on day to day basis and dispose of the same within a period of two months from the date of receipt of a copy of this order. The executing court shall also send a compliance report to the Registry of this Court which shall be placed before me. It is made clear that under no circumstances, an application for extension of time will be entertained. With this direction, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1. The Principal District Munsif, Kuzhithurai.

2. The Section Officer,  
Judicial Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1CC to Mr.T.S.R.Venkatramana, Advocate, SR.No. 77368

+1CC to Mr.M.P.Senthil, Advocate, SR.No. 77381

+1CC to Mr.S.Palani Velayutham , Advocate, SR.No. 77648

CRP (MD)No.863 of 2017 (NPD)  
06.08.2018

SKM

ES/SKN/RSK/SAR 1/09.08.2018/6P/6C