

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 27th DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

E.P.No.41 of 2017
and
A.Nos.3875 & 3876 of 2021

E.P.No.41 of 2017:-

P.N.Gopinathan,

S/o G.Narayanaswamy office at III Floor, Asha Mansion

No.59, Monteith Road, Egmore, Chennai - 8

Now Office at No.29, Precision Plaza,

No.397, Anna Salai, Teynampet

Chennai - 600 018

... Petitioner / Decree Holder

-Versus-

1. O. Harendra Kumar Dave ***(Deceased)**

No.59, Monteith Road,

Egmore, Chennai-8

2. R.Madhusudanan

S/o.T.P.Ramakrishnan

Office at Thillai Complex-I Floor,

No.723, Poonamallee High Road, Aminjikarai,

Chennai - 600 029.

****3. Mrs. Asha Dave**

W/o Late Harendra Kumar Dave

4. Mrs. Sharmila Dave

D/o. Late Harendra Kumar Dave

5. Mr.Sanjay Dave

S/o Late Harendra Kumar Dave

6. Mr.Anand Dave

S/o Late Harendra Kumar Dave

**Judgment Debtors Nos.3 to 6 are
residing at No.59, Monteith Road,
Egmore, Chennai 600 008.**

**(Judgment Debtors 3 to 6 are brought on record as Legal Heirs of the
Deceased First Judgment Debtor as per order dt 4.10.2017 Passed in
Application No.6035 of 2017.)**

..Respondents/Judgment Debtors

Execution Petition praying that this Hon'ble Court be pleased to order attachment and sale of immovable property belonging to the Respondent/Judgement debtor in morefully described in the schedule under order 21 Rule 64 of C.P.C. for the realisation of the decree amount along with future interest till the date of realization.

Application No. 3875 of 2021:-
P.N.Gopinathan (since deceased)

1. A.Vijayalakshmi
W/o P.N.Gopinathan
residing at 10-b G1
Sharvashree Home
19/10 Sampangi Street
Opposite street to Kittu Park,
West Mambalam, Chennai - 600 033

2. C.G.Vijaya Narayana (Minor)
aged about 17 years
Rep. by Guardian
A.Vijayalakshmi

Residing at 10-b G1
 Sharvashree Home
 19/10 Sampangi Street
 Opposite street to Kittu Park,
 West Mambalam, Chennai - 600 033

...Applicants / Appellants 2 & 3
 / Decree Holders 2 & 3

-Versus-

O. Harendra Kumar Dave (since deceased)

1. Mrs. Asha Dave
 W/o Late Harendra Kumar Dave
 No.59, Monteith Road,
 Egmore, Chennai-600 008

2. Mrs. Sharmila Lazro,
 D/o. Late Harendra Kumar Dave
 No.59, Monteith Road,
 Egmore, Chennai-600 008

3. Mr.Sanjay Dave
 S/o Late Harendra Kumar Dave
 Represented by Power Agent
 Mr. Anand Dave

4. Mr.Anand Dave
 S/o Late Harendra Kumar Dave
 No.59, Monteith Road,
 Egmore, Chennai-600 008

5. R.Madhusudanan
 S/o. T.P.Ramakrishnan,
 I Floor Thillai Complex
 723, Poonamallee High Road, Aminjikarai,
 Chennai - 600 029.

...Respondents / Respondents Judgment
 Debtors 2 to 6

Application praying that this Hon'ble Court be pleased to grant an
 order of interim stay of all further proceedings in EP 41 of 2017 in C.S. 413
 of 2002 pending disposal of the Appeal against the Master order dated
 29.09.2021.

Application No. 3876 of 2021:-

P.N.Gopinathan (since deceased)

1. A.Vijayalakshmi
W/o P.N.Gopinathan
residing at 10-b G1
Sharvashree Home
19/10 Sampangi Street
Opposite street to Kittu Park,
West Mambalam, Chennai - 600 033

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I Floor Thillai Complex
723, Poonamallee High Road, Aminjikarai,
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...Respondents / Respondents Judgment
Debtors 2 to 6

Application praying that this Hon'ble Court be pleased to set aside the
Order and Decreetal Order passed by the Learned Master in App 1363 of
2021 in E.P.41 of 2017 in C.S.413 of 2002 dated 29.09.2021.

This Execution Petition along with these Applications coming on this
day before this Court for hearing in the presence of
M/s.T.V.Krishnamachari, Advocate for the decree holder in E.P.No.41 of
2017 and for the applicant in A.Nos.3875 and 3876 of 2021 and
Mr.K.Venkatraman for M/s.Tatua Legal Chennai, Advocates for the
Judgement Debtor 3 to 6 in E.P.No.41 of 2017 and for the respondent 3 to 6
in E.P.No.41 of 2017 and for the respondents 3 to 6 in A.Nos.3875 and
3876 of 2021 and upon reading the petition filed in E.P.No.41 of 2017 and
the order dated 19.01.2022 made in A.Nos.3875 & 3876 of 2021 and the
memo filed by the decree holders and the judgement debtors and the
settlement agreement signed by the decree holders and the judgement
debtors with respective advocates and the said advocates for the parties
hereto,

It is ordered as follows:-

That the E.P.No.41 of 2017 shall stand terminated and the decree dated 12.06.2008 passed against the defendants in C.S.No.413 of 2002, be and is hereby set aside by this Court as the dispute has been resolved as per the memos and settlement agreement morefully setout in the schedule hereunder.

2. That the Registrar General of this Court do pay a sum of Rs.3,00,000/- (Rupees Three Lakhs only) now in Court deposit standing to the credit of E.P.No.41 of 2017 to Mrs.A.Vijayalakshmi the applicant in A.Nos.3875 & 3876 of 2021 and issue cheque therefor in her favour.

3. That the Registry/Account Department, be and is hereby directed to carry out exercise on or before 03.02.2022.

4. That the attachment order granted in pursuance of order dated 12.07.2017 made in E.P.No.41 of 2017, attaching the property morefully setout in the schedule hereunder, be and is hereby raised.

Schedule of property belonging to First Respondent

O.Harendra Kumar Dave

Egmore Village S.No.1625, S.No.1625/12, S.No.1625/13 Door No.59, Montieth Road, Extent 5400 sq.feet, Situated at Periamedu Sub-Registration District, with the following boundaries.

North by : Door No.60, Monteith Road,

South by : Door No.20, Ethiraj Lane and Ethiraj Road

East by : Door No.58, Montieth Road

West by : Door No.61/62 Ethiraj Salai.

Settlement Agreements

and

Memos

KY
03.02.2022

E.P.No.41 of 2017
and
A.Nos.3875 & 3876 of 2021

ORDER

DATED : 27.01.2022

THE HON'BLE MR. JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL : 3.2.2022

APPROVED ON : 03.02.2022

Copy to:

1. The Registrar General,
High Court, Madras.
2. The Accounts Section.
3. The Sub Registrar Office,
Periamet,
Chennai.

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Application praying that this Hon'ble Court be pleased to set aside the
Order and Decreetal Order passed by the Learned Master in App 1363 of
2021 in E.P.41 of 2017 in C.S.413 of 2002 dated 29.09.2021.

This Execution Petition along with the Applications coming on this
day before this Court for hearing, **the Court made the following order:-**

Both the parties have arrived at a settlement and they have also filed a
settlement agreement dated 24.01.2022 which has been placed before this
Court, along with a memo dated 25.01.2022 which has also been filed by
the learned counsels appearing for the respective parties. The settlement
agreement has been signed by all the parties to the dispute. The settlement
agreement dated 24.01.2022 as well as the memo dated 25.01.2022 are
taken on record. In terms of the settlement agreement dated 24.01.2022 as
well as the memo dated 25.01.2022, A.Nos.3875 & 3876 of 2021 are
disposed of.

2. The settlement agreement dated 24.01.2022 and the memo dated
25.01.2022 shall form part of this order.

3. In view of the compromise, E.P.No.41 of 2017 shall stand terminated and the decree passed against the defendants in CS.No.413 of 2002 is set aside by this Court as the dispute has been resolved as per the aforementioned memo of compromise and settlement agreement. Consequently, A.No.1363 of 2021 is closed.

4. Registry / Account department of the High Court is directed to issue a cheque for a sum of Rs.3,00,000/- in favour of Mrs.A.Vijayalakshmi after verification as according to the parties, the said amount was deposited to the credit of E.P.No.41 of 2017. Registry / Account Department is directed to carry out this exercise on or before 03.02.2022. Registry is directed to intimate the concerned SRO to raise the order of attachment over the subject property in E.P.No.41 of 2017 in view of the settlement of dispute between the parties.

Sd/- A.Q.J.
27.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.