



CRP(PD)(MD)No.1323 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1323 of 2022
and CMP(MD)No.5457 of 2022

1. L.Shanmugarajan

2. S.Revathi

... Petitioners

versus

1. Muthazhagan

2. T.Krishnasamy

3. Kanna

4. Deivendran

5. The Branch Manager,
Canara Bank,
Ramanathapuram.

6. Vedarajan

7. Kamalakannan

8. Chandran

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9. Sriram Finance,
Vandikkara Street,
Ramanathapuram Town,
Ramanathapuram District.
10. Jeevaraj (Retired Police)
11. G.Ramakrishnan
12. K.Valayapathi
13. K.Krishnan (Retired),
Sub Registrar,
Housing Board, Moolakothalam,
Ramanathapuram Taluk & District.
14. Velu (Marine Engineer),
Housing Board,
Moolakothalam,
Ramanathapuram Taluk & District.
15. G.Chelliah
16. Babu
17. Meenatchi Sundaram
18. N.Chandran
19. Moorthy
20. M.Rathinam



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21. MVRR. Kirangan Chettiar

22. Manivasagan

23. Soman

24. M.Ramachandran

25. Balaji Maligai
Owner Balaji Maligai Shop,
Periya Ther Back Side,
Madurai Taluk,
Madurai District.

26. Pitchaiammal

27. Sivaraman

28. Subbulakshmi

29. R.Kasi Sankar

30. Amutha

31. Chithra

32. Hema

33. Valarmathi

34. Gunasekaran

35. Jeyakumar



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36. Sudharsan

37. Sankari

38. Nayinar Mohamed

39. PSA.Thiyagarajan

40. PSA.Gunabalan

41. B.Mahadevan

42. PSAD.Gnana Soundari

43. PSAD.Jeyaprakash

44. Murugan (Retired Sub Collector)
Housing Board,
Moolakothalam,
Ramanathapuram,
Ramanathapuram Taluk & District.

45. Veerasamy

46. Ganesan

47. Udhayasuriyan

48. Saravanan

49. P.Nagamani Pugazhenth



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50. Sethuraman (Retired Sub Collector)
Adaikalamkathaiyanar Street,
Ramanathapuram,
Ramanathapuram Taluk & District.

51. Ganesan

52. Arun

53. Johnson

54. Karthikeyan

55. A.Vijayarani

56. Barakath Ali

57. M.Ganesan

58. T.R.Balu & Asaithambi

59. Mangalanatha Sethupathy,
RDCCWS Limited,
Ramanathapuram,
Ramanathapuram Taluk & District.

60. V.A.Raja (Style King Tailor)

61. Pushpalatha

62. Rajeswari

63. Palchamy



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64. Meenu

65. P.Rethinam

66. Sathayee

67. Karuppiah

68. Gurusamy (Retired LD Bank Staff)
Housing Board,
Moolakothalam,
Ramanathapuram,
Ramanathapuram Taluk & District.

69. Palanimurugan

70. Nagendran

71. Bala Vinayagar Finance,
(Proprietor)
Bharathi Nagar,
Ramanathapuram,
Ramanathapuram Taluk & District.

72. Ramesh

73. P.Venkateshwaran

74. TKDD Prem Anand,
No.3/1 Vandikara Street,
Ramanathapuram,
Ramanathapuram Taluk & District.



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75. Muthu Nambu

76. Muruganandham

77. Naga Baskar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.03.2022 made in I.A.No.64 of 2021 in I.P.No.1 of 2019 on the file of the learned Additional District Judge, Ramanathapuram.

For Petitioners : M/s.J.M.Hassanul Bazari

ORDER

This Civil Revision Petition is filed against the order dated 11.03.2022 made in I.A.No.64 of 2021 in I.P.No.1 of 2019 on the file of the learned Additional District Judge, Ramanathapuram.

2. The petitioners herein filed I.P.No.1 of 2019 before the learned Additional District Judge, Ramanathapuram, to declare them as insolvents as against the debts borrowed from the respondents 1 to 77.



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Thereafter, the petitioners filed an interlocutory application in I.A.No. 64 of 2021 in I.P.No.1 of 2019 under Order 3 Rules 1 and 2 of C.P.C., to recognize one D.Jeyakumar as Power Agent of the petitioners to give evidence on behalf of them. The trial Court, by order dated 11.03.2022, dismissed the said application. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner submits that the person in whose favour the power of attorney was executed is the son-in-law of the petitioners. Since the petitioners are senior citizens, aged about 71 years and 66 years, they have executed a power deed in favour of their son-in-law, who knows about all the transactions, to give evidence on behalf of them. However, the trial Court, without considering the same, held that the power deed was executed on 17.12.2021, so that, he cannot have any knowledge about the transactions before the date of execution of the power deed, which is perverse in law. He further submits that the power agent himself has



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admitted that he had knowledge about the facts of the case. Therefore, the said application has to be allowed.

4. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

5. The petitioners filed I.P.No.1 of 2019 to declare them as insolvents against the debts borrowed from the respondents 1 to 77. The said insolvency petition was filed on 14.03.2019. When the case was posted for enquiry on 17.12.2021, the said interlocutory application was filed under Order 3 Rules 1 and 2 of C.P.C., to recognize the Power Agent of the petitioners, namely, D.Jeyakumar and to give evidence on behalf of the petitioners. The execution of power deed in favour of one D.Jeyakumar is only on 17.12.2021, i.e. when the insolvency petition was posted for enquiry on 17.12.2021. The trial Court dismissed the said application holding that the power agent cannot have any personal knowledge about the transactions of the



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petitioner before the execution of power deed dated 17.12.2021.

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6. The insolvency petition was filed on 14.03.2019. After the lapse of two years, the power deed was executed only on 17.12.2021, when the insolvency petition was posted for enquiry. Further, the petitioners have not stated any sufficient cause, which prevents them from appearing before this Court to give evidence. Therefore, the trial Court has rightly dismissed the said application and there is no reason to interfere with the order of the trial Court.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet: Yes / No.



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To

1. The Additional District Court,
Ramanathapuram.



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