



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

CORAM

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THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P (MD) .Nos.1718 of 2015 and 2741 of 2014 and
MP (MD) .No.1 of 2014

The Special Officer,
representing Weavers Cooperative Society,
TNH.34, Kalladi,
Kalladi Post, Poottetti Desom,
Paloor Village,
Vilavancode, Taluk,
Kanyakumari District.

: Petitioner in both CRPs

Vs.

1. Radhabai amma (died)

2.K.R. Sudhakar

3.K.R. Sureshkumar

4.K.Sudharsan Kumar

5.K.Sudheesh Kumar

(R2 to R5 are impleaded vide Court order
dated 16.03.2022)

: Respondents in

CRP (MD) .No.2741/14

1.General Manager,
District General Cooperative Bank Ltd.,
Nagercoil,
Kanyakumari District.

1. Radhabai amma (died)

2.K.R. Sudhakar

3.K.R. Sureshkumar

4.K.Sudharsan Kumar

5.K.Sudheesh Kumar

(R3 to R6 are impleaded vide Court order
dated 16.03.2022 made in

CMP(MD)No.8147 &8160 of 2021

in CRP(MD) .No.1718 of 2015 & 2741 of 2014

: Respondents in

CRP (MD) .No.1718 of 2015

Common Prayer: - Civil Revision Petitions filed under Section 115 CPC to set aside the fair and decreetal order dated 29.10.2014 passed in E.A.Nos.203 of 2014 and 402 of 2011 in E.P.No.13 of 2006 in O.S.No.3 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai.



For petitioner in both CRPs : Ms. J. Anandhavalli
For R3 to R6 in CRP(MD).No.1718 of 2015
For respondents in CRP(MD).No.2741 of 2014
: Mr. M.P. Senthil

COMMON ORDER

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CRP(MD).No.1718 of 2015 is filed to set aside the order, dated 29.10.2014 passed in E.A.No.402 of 2011 in E.P.No.13 of 2006 in O.S.No.3 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai, which was filed by the Garnishee.

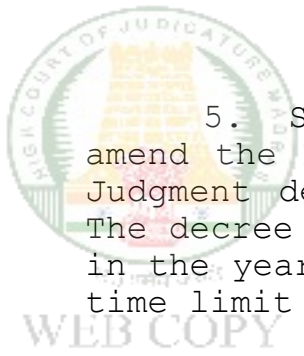
2. CRP(MD).No.2714 of 2014 filed by the revision petitioner to set aside the order, dated 29.10.2014 passed in E.A.No.203 of 2014 in E.P.No.13 of 2006 in O.S.No.3 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai.

2. Heard the learned counsel appearing for both sides and perused the materials available on record.

3. The revision petitioner / decree holder filed E.A.No.203 of 2014 under Order VI Rule 17 and Section 151 CPC to amend the execution petition. The suit is for recovery of money and the same was decreed in the year 1997. The Execution Petition was filed to execute the decree in E.P.No.13 of 2006.

4. The Garnishee filed one E.A.No.402 of 2011 to amend the decree instead of Rs.1,48,650/- as Rs.60,000/-, because the Garnishee is having only Rs.60,000/- of the Judgment debtor and the said Execution Application was partly allowed and the Garnishee was directed to pay a sum of Rs.60,000/- by way of cheque to the EP account. So, for the remaining amount the petitioner / decree holder has to amend the Execution Petition and there must be a attachment of the property of the Judgment debtor. There is no bar to amend the execution petition for realizing the balance of decree amount as per the Judgment of this Court reported in **2015(3) MWN (Civil) 88 (Jayaraj Vs. Chockalingam Chettiar)**, wherein at para No.17 it has been held as follows:

"17. The Decree-holder is given an option to seek anyone of the modes for execution. Merely because the Decree-holder has availed one particular mode of execution, it cannot be said that he is disentitled, at a later point of time, to amend the Execution Petition, seeking another mode of recovery. Amendment of Execution Petition is, therefore, permissible, by invoking the provisions of Sections 151 and 153 of the Code of Civil Procedure, 1908."



5. So, for the balance decree amount, the petitioner has to amend the Execution Petition for attachment of the property of the Judgment debtor. The EP proceeding continues till the realization. The decree is of the year 1997 and the Execution Petition was filed in the year 2006. Since the Execution Petition was filed within the time limit of 12 years there is no limitation to realize the amount,

6. Hence, both the Civil Revision Petitions are dismissed by confirming the order, dated 29.10.2014 passed in E.A.Nos.203 of 2014 and 402 of 2011 in E.P.No.13 of 2006 in O.S.No.3 of 1996 on the file of the Principal District Munsif Court, Kuzhithurai.

7. Since the E.P is pending from the year 2006, the learned Principal District Munsif, Kuzhithurai is directed to dispose the Execution Petition in E.P.No.13 of 2006 within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

trp

To

The Principal District Munsif, Kuzhithurai.

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-15256[F] dated 30/03/2022)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-15277[F] dated 30/03/2022)

C.R.P(MD).Nos.1718 of 2015 and
2741 of 2014 and MP(MD).No.1 of 2014
29.03.2022

RD(13.04.2022) 3P 4C