



C.R.P.(MD)No.910 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.910 of 2022

S.Ramasamy (Died)

1.M. Lakshmi

2.R. Selvam

3.R. Arun

4.R. Tamilarasi

K. Chithra (Died)

5.K. Vennila

6.Kadappan

7.K. Saravanan

8.K. Sankar

... Petitioners/Petitioners/Plaintiffs – D.H

Vs.

Sathappan(died)

Shanmugam(Died)

Srinivasan(Died)

**1. Sri Vishalam Chit Funds Srengam Represented By, its Manager
(Since Exonerated)**

Nagammal (Died)

2.Rathinam

3.Chokalingam @ Sathaiyan

4.Natarajan

5.Arayer @ Thamilarasi



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- 6.Karuppaiyah @ Balu
- 7.Minor Kannagi (Rep. by Guardian/Mother NagammalO
- 8.Seethalakshmi
- 9.Ganthimathi
- 10.Mangalam
- 11.Annalakshmi
- 12.Murugan
- 13.Minor. Dhanalakshmi
- 14.Minor Kannan
- 15.Minor Tamilarasu
- 16.Minor Kumaran
- 17.Minor Saravanan
- 18.Minor Sakthivel
- (Minors 13 to 18 represented through 8th respondent as Guadian)

19.Iyyappan and Co.,
9, Sannathi Street,
Thiruvanaï Koil,
Trichy – 5,
rep. by its Partners,
Viswalingam
Chellaiyah Pillai.

20.Akila Printers,
Rep. by Mr.Sivakumar,
Sannathi Sreet,
Thiruvanaï Koil,
Trichy – 5.

21.Amsavalli Electricals
Rep by Mr. Subramaniyan, Sannathi Street,
Thiruvanaï Koil, Trichy – 5.

22.Savarinathan ... Respondents/Respondents/Respondents
/Defendants – J.D.

(Except R4 and R12 all others set exparte before execution Court. R4
and R12 alone contesting Respondents)



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PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the Fair and decreetal order made in E.P. No. 503 of 2014 in O.S. No. 100 of 1974 on the file of 1st Additional District Judge, Trichy, dated 17.09.2018, by allowing this revision.

For Petitioners : Mr.R.Sundar

For Respondents : No Appearance for R4 & R12

ORDER

This civil revision petition has been filed to set aside the Fair and decreetal order made in E.P.No.503 of 2014 in O.S.No.100 of 1974 on the file of 1st Additional District Judge, Trichy, dated 17.09.2018.

2.The facts in brief:

Suit in O.S.No.100 of 1974 was filed. A preliminary decree was passed on 18.03.1976. Thereafter, final decree application was filed. That was passed on 15.02.1994. Against which appeal was preferred in A.S.No.243 of 1995 before the II Additional District Judge, Tiruchirappalli. It was decided on 28.02.1997. Thereafter, second appeal in S.A.Nos.102 of 1998 and 644 of 1999, were preferred before this Court. That were decided on 23.08.2014. Thereafter, E.P.No.503 of



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2014 was filed by this revision petitioner on 22.01.2013. That came to be dismissed by the Execution Court stating that the Execution petition is barred by limitation. Apart from that it is also stated that the copy of the decree was not engrossed on Non Judicial Stamp paper. So that it is not executable. On the above said twin reasons, E.P was dismissed. Against which this revision is preferred.

3.Heard the revision petitioner. There is no representation for respondents 4 and 12 even though he entered appearance through Advocate. Other respondents were remained exparte in the execution Court itself.

4.With regard to the limitation point, which is raised by the executant Court, the counsel for the petitioner draw the attention of this Court to the judgment of the Honourable Supreme Court made in the case of ***Chandi Prasad and others Vs. Jagdish Prasad and others*** reported in ***(2004) 8 SCC 724*** and would submit that since the second appeal was disposed of by this Court by the judgment, dated 23.08.2011, the E.P was filed within the period of limitation.



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5.*Doctrine of Merger* was invoked by the Honourable Supreme Court to resolve the issue. In view of the Judgment of the Honourable Supreme Court, from the date of disposal of the second appeal namely on 23.08.2011, the execution petition is well within the time, since the settled preposition of law need not be elaborated here.

6.Regarding the first issue of non engrossing the final decree on the Non Judicial Stamp paper the revision petitioner has to take appropriate steps to get it engrossed on Non Judicial Stamps and thereafter may file the same. Since it is a curable defect, it may be cured by the revision petitioner within a month from the date of receipt of a copy of this order. After curing the above said defect the execution court is directed to restore the E.No.503 of 2014 to its file and proceed with in accordance with law.

7.With the above said directions, this civil revision petition stands allowed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The I Additional District Judge, Trichy.
- 2.The Section Officer, E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA,J.

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