



C.R.P(MD).No.1597 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 28.03.2024

CORAM:

THE HON'BLE Mr. JUSTICE K.K.RAMAKRISHNAN

C.R.P.(MD).No.1597 of 2014

Meenakshisundaram(died)

2.M.Selvaramani

3.M.Deepalakshmi

4.M.Ramalakshmi

5.M.Ragavendran

... Petitioners

*(Petitioners 2 to 5 are brought on record as LRS
of the sole petitioner/deceased vide Court order
dated 25.08.2023, in C.M.P.(MD).No.6864 of 2016)*

Vs.

1.Kaliammal

2.Sendhil

3.Kathiresan

4.Muthuvel

5.Rathinavel

6.Palanivel

7.Murugesan

... Respondents

Prayer : Civil Revision Petition is filed under Article 115 of C.P.C.,
praying to allow the Civil Revision Petition and set aside the fair and
decreetal order passed in I.A.No.1385 of 2011 in O.S.No.209 of 2004 on the
file of the Additional District Munsif, at Srivilliputhur, dated 06.03.2014.



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For Petitioners : Mr.M.Ashokkumar

For Respondents : No appearance

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order passed in I.A.No.1385 of 2011 in O.S.No.209 of 2004 by the learned Additional District Munsif, at Srivilliputhur, dated 06.03.2014.

2.The decree holder namely the deceased filed a suit in O.S.No.209 of 2004 on the file of the learned Additional District Munsif, at Srivilliputhur. In the plaint, it is averred that the respondent's father has borrowed money of Rs.1,20,000/- from the decree holder upon mortgage of deposit of title deed. Thereafter, there was no repayment and hence, he filed a suit for recovery of money. The suit was decreed on 21.02.2005 with a direction to the respondents to pay a sum of Rs.2,26,485/-. They failed to repay the same. Thereafter, there was no challenge. Thereafter, he filed execution petition in I.A.No.1385 of 2011 with delay of 690 days. The same was dismissed by the learned execution Court on the ground that the petition was filed belatedly and hence, this petition is not maintainable. Challenging the same, the present civil revision petition is filed.



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3.This Court admitted the revision and ordered notice to the respondents namely the Judgment debtors. The Judgment debtors after receipt of the notice, have not appeared before this Court either through counsel or in person. This Court considered the pendency of the suit from 2004 onwards, and took the case for final disposal.

4.The learned counsel appearing for the petitioners submitted that there was no limitation prescribed under the limitation Act in the final hearing proceedings. Further, he relied the judgment of the Division Bench of this Court reported in **2018 (5) CTC 353** in the case of ***A Partnership Firm Vs. State Bank of India***, in which, the Court held to execute the decree on the basis of the mortgage by deposit of title deed, there was no limitation prescribed under the Act. Further, he stated that even as per the limitation Act, there was no prescription for filing final decree. The impugned order passed by the Court below is not in accordance with law.



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5.This Court considered the submission of the learned counsel appearing for the petitioners and also perused the materials available on record and the impugned order and also precedents relied upon by them.

6.The Hon'ble Division Bench of this Court in the case of *A Partnership Firm Vs. State Bank of India*, reported in **2018 (5) CTC 353** elaborately considered all the aspects and held that there was no limitation for filing final decree on the basis of the preliminary decree passed in favour of the petitioner in the mortgage suit in O.S.No.209 of 2004 on the file of the learned Additional District Munsif, Srivilliputhur, Virudhunagar District. In view of the law laid down by the Honourable Division Bench of this Court in the case of *A Partnership Firm Vs. State Bank of India*, reported in **2018 (5) CTC 353** this Court is inclined to accept submission of the learned counsel appearing for the petitioner.

7.Accordingly, this Criminal Revision Petition is allowed setting aside the fair and decreetal order passed in I.A.No.1385 of 2011 in O.S.No. 209 of 2004 by the learned Additional District Munsif, at Srivilliputhur,



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dated 06.03.2014 and this Court is directed to proceed the I. A.No.1385 of 2011 in O.S.No.209 of 2004 by the learned Additional District Munsif, Srivilliputhur as per law. No costs.

28.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vsg/sbn

To

- 1.The Additional District Munsif,
at Srivilliputhur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.,

vsg

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