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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.09.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.2203 of 2023

M/s.Dhanalakshmi Srinivasan Chit Funds
Private Limited,
represented by its Foreman,
No.791/D1, Nehruji Road,
Villupuram.

... Petitioner

Vs.

G.Haridass (died) S/o.Govindaraj
B.Tholkappian (died) s/o. Balasubramani
I.K.Thangaraj

... Respondent

(cause title accepted vide Court order dated 14.06.2023 made in
CMP.No.11952 of 2023 in CRP.SR.No.41231 of 2023 by DNRJ)

PRAYER: Civil Revision Petition filed under Section 115 of Civil
Procedure Code, to set aside the order dated 11.01.2023 made in E.P.No.32
of 2017 in ARC.No.128 of 2015 on the file of the Additional District
Munsiff, Villupuram.

For Petitioner	:	Mr.Y.Jyothish Chander
For Respondent	:	Mr.S.Gnanam

ORDER



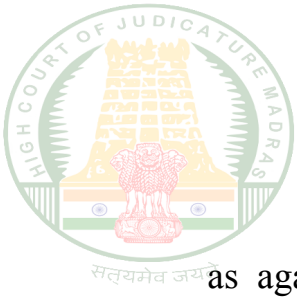
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This civil revision petition has been filed to set aside the order dated 11.01.2023 made in E.P.No.32 of 2017 in ARC.No.128 of 2015 on the file of the Additional District Munsiff, Villupuram.

2. Heard Mr.Y.Jothish Chander, learned counsel for the petitioner and Mr.S.Gnanam, learned counsel appearing for the 3rd respondent.

3. Mr.Y.Jothish Chander, learned counsel for the petitioner/decreed holder would submit that the Executing Court has erroneously dismissed the execution petition relying on a decision which does not apply to the facts of the present case. He would invite my attention to the award passed in chit proceedings as against the original chit subscribers as well as two sureties one amongst whom the 3rd respondent herein.

4. It appears even from the award that one of the sureties namely the 2nd respondent had died pending the proceedings in ARC.No.128 of 2015. However the award came to be passed against the chit subscribers-the 1st respondent and the surety-the 3rd respondent.



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5. Subsequently, the petitioner has chosen to file an execution petition as against the respondents 2 and 3 alone namely the sureties. The said execution petition was contested by the 3rd respondent stating that the other respondents namely the chit subscribers and the other sureties are no more and therefore, the execution petition itself is not maintainable and the proceedings will have to be abated.

6. The learned Executing Court had relied on the judgement of the Supreme Court in ***Central Bank of India Vs. C.L. Vimla, reported in (2015) 7 SCC 337***, where the Honourable Supreme Court held that the liability of the guarantor is co-extensive with that of the debtor. Despite noticing the said legal position, the Executing Court relying on the decision of the Nagpur High Court and Karnataka High Court in ***Vinod S/o.Chhaganal Daga Vs.Shriram Chits Private limited*** and ***T.Raju Shetty Vs.Bank of Baroda***, reported in ***1991 KARLJ 4 475*** has held that the EP does not survive and the rule of co-extensive liability could not extend to the sureties and therefore, proceeded to dismiss the execution petition itself.

7. The Executing Court has clearly fell in error in applying the



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decisions of the Nagpur High Court and Karnataka High Court, which have no application to the facts of the present case. In both the cases before the Nagpur High Court and Karnataka High Court, even pending the main suit proceedings, the principal debtor had died and suit got abated and in such circumstances, the Courts held that the claim should also abate as against the surety as well.

8. However, in the present case, I find in the award that the chit subscriber-the 1st respondent has appeared in person and has only sought for time to settle the claim of the petitioner/decree holder. It is much later after passing of the award, the principal debtor died which is also evident from the memo filed by the 3rd respondent herein before the Executing Court on 17.02.2022.

9. Therefore, when the execution petition has already been filed to execute an award against the principal debtor and sureties, it is the choice of the petitioner, to choose against whom, the petitioner intends to proceed with the execution proceedings and recover the amounts due.

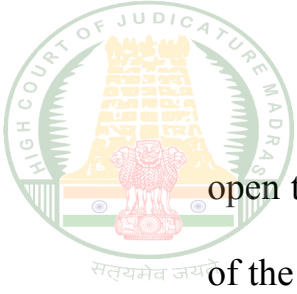


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10. In the present case, the petitioner has chosen to file the execution petition as against the sureties. The liability being co-extensive, the 3rd respondent cannot contend that since the principal debtor had died, the proceedings cannot be continued as against the 3rd respondent-surety and also on the ground that the other surety is also not available.

11. The ratio laid down by the Honourable Supreme Court in ***Central Bank of India Vs. C.L. Vimla***, reported in (2015) 7 SCC 337, would squarely apply to the facts of the present case and the 3rd respondent surety cannot contest the execution petition on the ground that after passing of the award, the principal debtor and one more surety had passed away and therefore, the proceedings will have stands abated.

12. For the foregoing reasons, I am inclined to set aside the order of the Executing Court and in view of the fact that the 2nd respondent also reported dead pending the EP proceedings, it is open to the petitioner to proceed with the execution petition as against the 3rd respondent. It is needless to say that in the event of the 3rd respondent being compelled or forced to settle the claim of the revision petitioner/decreed holder, it is always



open to the 3rd respondent to recover the same from the legal representatives
of the deceased 1st respondent.

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13. In view of the above, this civil revision petition is allowed. No
costs.

22.09.2025

Speaking/Non-speaking : Yes/No
Index : Yes / No
mpa

To
The Additional District Munsiff Court, Villupuram.



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P.B. BALAJI, J.

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