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C.M.P.Nos.8350 of 2025, etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

CORAM

THE HONOURABLE MRS JUSTICE R. KALAIMATHI

CMP NOs. 8350, 8355 & 8359 of 2025

IN

SA NO. 1248 OF 2012

M.NANJAPPAN (Died)

1. Sulochana Nanjappan,
W/o. Late. M.Nanjappan

2. Sumathi Rajamanikkam,
D/o Late M.Nanjappan,

3. Sunitha, T.
D/o Late M.Nanjappan,

4. Prasath, N.
S/o Late M.Nanjappan,

5. Pradeep Nanjappan,
S/o Late M.Nanjappan,

.. Proposed petitioners 1 to 5/
Proposed Appellants 1 to 5 in all
CMPs

Versus

Poovathal @ Masammal
W/o. Velusamy, Eachanari Post,
Coimbatore.

Respondent in CMPS



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Prayer in CMP Nos.8350, 8355 & 8359 of 2025:

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i) to condone the delay of 600 days in filing the application to set aside the abetment, to bring on record the Legal Representatives of the deceased sole Appellant, namely, M.Nanjappan and rank them as Appellants 2 to 6 in the above SA 1248 of 2012;

ii) to set aside the abetment caused due to the death of the sole Appellant, namely, M.Nanjappan in the above said Second Appeal;

iii) to bring on record the proposed petitioners 1 to 5 as the Lrs of the deceased sole appellant, namely, M.Nanjappan and rank them as Appellants 2 to 6 in the above SA 1248 of 2012;

For Petitioners : Ms.M.Atchaya

For Respondent : Mr.S.P.Vishnu Prasad for
M/s.V.Nicholas

COMMON ORDER

Due to the death of the sole Appellant, M.Nanjappan, the present applications have been taken out, seeking to condone the delay, to bring on record the Legal Representatives of the deceased Appellant and to set aside the abetment due to the death of sole appellant.

1. The learned counsel for the Respondent has filed a Memo, wherein, it is stated as under:

“MEMO FILED BY THE RESPONDENT

1. The respondent filed O.S.No.2057 of 2006 before the



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Principal District Munsif of Coimbatore for delivery of possession and for the recovery of Rs.6,000/- being the rent for 24 months.

2. The trial Court granted a decree dated 30.07.2009 for delivery of possession only.
3. Against the said decree, the appellant herein filed an appeal before the 1st Additional Subordinate Judge of Coimbatore in A.S.No.25 of 2010. The said appeal was dismissed on 29.11.2011 confirming the Judgement and Decree of the trial Court.
4. Challenging the said judgments and decrees of the Courts below, the appellant herein has filed the present second appeal.
5. Pursuant to the decree for delivery of possession, the respondent herein filed E.P.No.76 of 2012 before the Principal District Munsif of Coimbatore.
6. The Execution Court passed an order dated 22.02.2013 directing delivery of possession by 21.03.2013.
7. Delivery was effected on 06.03.2013 and the delivery was recorded on 06.08.2013 and the E.P.has been terminated.
8. Thus the decree for delivery of possession has been executed and possession has been handed over to the



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respondent.

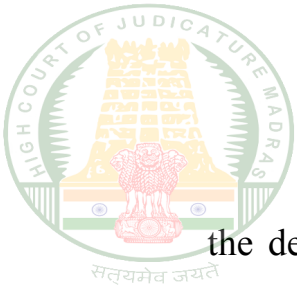
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3. Along with the above Memo, the respondent filed copies of Execution Petition and the orders thereon, Warrant for effecting delivery of possession and Possession Receipt.

4. As per the Delivery Receipt issued by the Central Nazir attached to the District Court, Coimbatore, it appears that delivery has been effected on 06.03.2013. In fact, filing of the Execution Petition by the Decree holder and the fact that possession was also taken by him, have been recorded by this Court vide order dated 12.11.2024 itself and dismissed the Second Appeal and thereafter only, the present three petitions have been taken out by the Legal Representatives of the deceased appellant.

5. The learned counsel for the appellant would submit that long before, the appellant died and now he seeks time for getting instructions.

6. However, taking into consideration the fact that already delivery has been effected on 06.03.2013 and the possession was also handed over to



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the decree holder, this Court finds that nothing survives in the appeal for consideration.

7. In view of the same, the present petitions stand closed.

29-04-2025

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To

1. The I Additional Subordinate Judge,
Coimbatore.

2. The Principal District Munsif,
Coimbatore.



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R.KALAIMATHI, J.

suk

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