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CRP NPD.No.1731 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 06.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.1731 of 2025 & CMP.No.9969 of 2025

Ragounadin

. . . Petitioner

Versus

1. Ramakrishnan
2. Pannerselvam
3. Cinnapoosanam

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to allow the Civil Revision Petition by setting aside the Docket Order dated 06.03.2025 passed in E.A.SR.No.1791 of 2025 in E.P.No.193 of 1996 in O.S.No.203 of 1995 on the file of the Principal Sub Judge at Puducherry.

For petitioner : Mr.T.S.Baskaran



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ORDER

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Challenge has been made to the returning of the application filed by the revision petitioner to implead himself in the Execution Petition in E.P.No.193 of 1996, in the present Civil Revision Petition.

2. Since the application filed by the petitioner itself has been returned and not numbered by the Execution Court, this Court is of the view that no notice is required to other side.

3. Brief facts leading to filing of this petition is as follows :

The first respondent/decreed holder has filed a suit for recovery of money against two defendants. The mother of the revision petitioner was arrayed as the second defendant in the suit. The suit came to be decreed for a sum of Rs.2 lakhs together interest by a judgment and decree dated 23.09.1996. The appeal filed challenging the decree and judgment has also been dismissed as the steps have not been taken. Therefore, it appears that the said decree and judgment had reached its finality. The second defendant died on 01.10.2017.



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Now it appears that the Execution Petition has been filed to realize the decree amount and the decree amount has not been satisfied till date. An Order of attachment has been passed as against the immovable property of the revision petitioner. The revision petitioner has also filed an application to raise the attachment in E.A.No.30 of 2019 and the said application has been dismissed on 24.10.2019. The fact remains that in the Execution Petition, after the death of the second judgment debtor, her legal representatives have not been impleaded by the decree holder. At this stage, an application has been taken out by the legal representative of the second judgment debtor to implead himself in the Execution Petition. The said application has been returned, which has been challenged in the present revision petition.

4. I have perused entire materials. At the outset, this Court is of the view that the Order of the trial Court returning the application filed by the petitioner to implead himself in the Execution Petition cannot be sustained in the eye of law. It is relevant to note that where the judgment debtor died before the decree amount is fully satisfied, the decree holder may enforce the

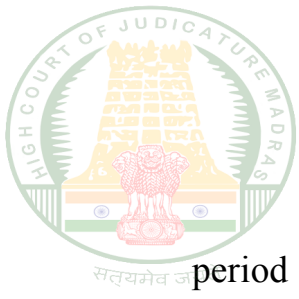


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decree against the legal representative of the judgment debtor to satisfy the decree amount. Such legal representative is normally liable only to the extent of the property of the deceased, which has come to his possession. These facts can be gathered only when the legal representatives of the judgment debtors are brought on record. Therefore, without impleading the legal representatives of the judgment debtor, as a matter of fact, the property of the judgment debtor cannot be brought for sale. The legal representatives of the judgment debtor have to impleaded. Thereafter, the Executive Court can decide as to what extent the legal representatives are liable. These facts have to be decided only after the legal representatives of the judgment debtor are brought on record. Therefore, the Order impugned is liable to be set aside.

5. Accordingly, this Civil Revision Petition is allowed and the Order of the Executing Court dated 06.03.2025 is set aside. The application filed by the revision petitioner to implead himself in the Execution Petition is allowed. The Executing Court shall decide the main Execution Petition and proceed for sale of the property after hearing the revision petitioner. The Execution Court shall dispose of the Execution Petition expeditiously, preferably within a



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period of four months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

06.06.2025

Note : The registry is directed to return the original affidavit and the Order passed in this regard to the petitioner.

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

The Principal Subordinate Judge,
Puducherry.



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N. SATHISH KUMAR, J.

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