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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.653 of 2023
& CMP.No.5104 of 2023

S.Jayabalan

... Petitioner

Vs.

1.G.Subramaniyan
2.Minor S.Priyanga
3.Minor Premnath
4.Minor S.Jansi

... Respondents

*[Minors all are represented by
their father 1st respondent as
guardian]*

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 09.09.2022 passed in E.A.No.187 of 2021 in E.P.No.92 of 2020 in M.C.O.P.No.1478 of 2006 on the file of the Principal District Judge, Cuddalore.

For Petitioner : Mrs.D.Kalaiselvi

For Respondents : Mr.R.Sreedhar



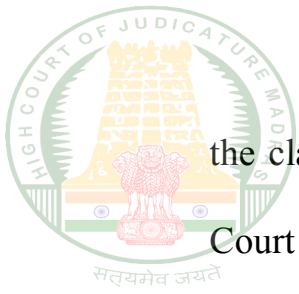
ORDER

This revision has been filed to set aside the order dated 09.09.2022 passed in E.A.No.187 of 2021 in E.P.No.92 of 2020 in M.C.O.P.No.1478 of 2006 on the file of the Principal District Judge, Cuddalore.

2.Heard Mrs.D.Kalaiselvi, learned counsel for the petitioner and Mr.R.Sreedhar, learned counsel for the respondents.

3.The petitioner challenges the order dated 09.09.2021 in E.A.No.187 of 2021, allowing an application to amend the provisions from Order XXI Rules 43 and 66 of CPC to Order XXI Rule 48 of CPC. The executing Court has allowed the amendment application and challenging the same, the judgment debtor has filed the present revision petition.

4.The learned counsel for the petitioner states that the EP itself is time barred and further, the claimants were minors at the time of the institution of the MCOP proceedings. However, despite they having attained the age of majority at the time of filing of EP, the same was not brought to the notice of the executing Court and the EP has been filed by the father/guardian, as if



the claimants are still minors. She would therefore state that the executing Court ought not to have entertained the amendment application.

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5.The learned counsel for the respondents states that the revision petitioner suffered an ex-parte award in MCOP proceedings and his application seeking to set aside the ex-parte award also came to be dismissed for non-prosecution and the same has become final. He would further state that insofar as the present revision, there is no infirmity in the order of the executing Court which has rightly noticed that it was only an inadvertent mistake in mentioning the correct provision of law. He would also state that EP having been filed on 15.11.2019 is well within time and not barred by limitation. He would therefore seek for dismissal of the revision.

6.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the impugned order of the Trial Court.

7.Considering that the scope of the present revision is only pertaining to whether the amendment of the provision of law being permitted is proper



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or not. I do not deem it necessary to go into the objections regarding the very maintainability of the EP on the grounds that have been argued by the learned counsel for the petitioner. Insofar as the amendment application, I find that the executing Court has rightly allowed the application, permitting the decree holders to amend the provision of law read as Order XXI Rule 48 instead of Order XXI Rule 43 and 66 of CPC. There is no infirmity in the order and hence, I do not find any grounds warranting interference in the said order of the executing Court. However, it is made clear that the contentions regarding the maintainability of the EP on the various grounds, that have been raised by the learned counsel for the petitioner, are left open to be argued before the executing Court.

8.The Civil Revision Petition is dismissed with the above observation. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

24.09.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To
The Principal District Judge, Cuddalore.



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P.B. BALAJI,J.

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