



C.M.A.No.2620 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.2620 of 2025

and

C.M.P.No.22015 of 2025

1. Vignesh
2. Priyanka

... Appellants

-VS-

1. N.P.Sathishkumar
2. Murugan

... Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Order 43 Rule 1 of Code of Civil Procedure against the petition and order dated 01.08.2025 made in R.E.A.No.8 of 2025 in R.E.A.No.4 of 2023 in R.E.P.No.43 of 2016 in O.S.No.151 of 2014 on the file of the learned Sessions Judge-Special Court for Trial of Cases under SC/ST (PoA) Act, Namakkal.

For Appellants : Mr.N.Manokaran



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JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the order dated 01.08.2025 made in R.E.A.No.8 of 2025 in R.E.A.No.4 of 2023 in R.E.P.No.43 of 2016 in O.S.No.151 of 2014 on the file of the learned Sessions Judge-Special Court for Trial of Cases under SC/ST (PoA) Act, Namakkal.

2. Parties are indicated herein as per their litigative status and ranking before the trial Court.

3. The defendant's son Vignesh along with his sister, Priyanka filed application under Order 21 Rule 58 of C.P.C stating that the property which is bought for auction sale, the petitioners are entitled for 1/3rd share each and therefore, to raise the order of attachment in respect of 2/3rd share in the suit property.



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4. When the matter came up on 09.04.2025 (R.E.A.No.4 of 2023), the Execution Court ordered dismissal of the petition by stating that power agent died and no steps was taken by the petitioners subsequent to the death of Power Agent and the petitions were filed by the power agent Kandasamy was dismissed. To restore the said petition, namely E.A.No.4 of 2023, E.A.No.8 of 2025 was filed by the son and daughter of the defendant Murugan, stating that the power agent is none else but their grandfather and it was a bona fide mistake on the part of the petitioners and sought for restoration of E.A.No.4 of 2023.

5. The Execution Court, after the counter was filed, ordered dismissal of E.A.No.8 of 2025 and the Order of the Executing Court is extracted hereunder:

"Counter filed. Heard both sides. REA 4/23 in the year 2023. The said REA 4/23 was filed by power agent Kandasamy on behalf of petitioners in the petition. The



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said Kandasamy died on 11.02.2024, but neither the present petitioners nor counsel for petitioners taken any steps to file steps or to proceed with the said petitions. The main REP 43/16 filed in the year 2016, the date of Judgment and Decree passed by Court in O.S.151/14 was 15.06.2015. Nearly 10 years have gone, till date the benefits of Judgment not reached the decree holder. The REA 4/23 filed after 8 years from the date of filing main REP 43/16 REA 4/23 was pending before this Court without any progress and counsel for petitioner even though having knowledge that petitioners power agent Kandasamy died on 11.02.2024, not informed this court and not taken any steps to proceed REA 4/23. In this situations this Court found no justification in the reason stated by the petitioners to restore REA 4/23. Hence, this petition is dismissed."

6. On a careful perusal of the case records, it appears that one Sathishkumar filed a suit for recovery of money against the father of the appellants Murugan, based on promissory note for a sum of



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Rs.15,00,000/- dated 13.07.2012 in O.S.No.151 of 2014 before the Principal District Court, Namakkal. On receipt of suit notice, a memo was filed by the defendant on 11.02.2015, with effect that he has no objection to decree the suit as prayed for and the suit was decreed by a judgment dated 10.06.2015. As the defendant did not repay the amount ordered, E.P.No.43 of 2016 was filed by the plaintiff for attachment and sale of E.P. mentioned property. The said property is a self-acquired property of the defendant. However, his son and daughter have filed a petition under Order 21 Rule 58 stating that they have 1/3rd share each in the suit property. In fact, in E.A.No.8 of 2025, (filed under Order 21 Rule 58 CPC), the application was filed by the power agent of the present appellants one Kandasamy. Kandasamy is the grandfather of the appellants.

7. In such circumstances, this Court does not find any perversity or infirmity in the orders passed by the Executing Court. There is no substance in the contention of the appellants. This Court also does not



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find good reason to upset the finding of the Executing Court.

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8. Above being the position, this Civil Miscellaneous Appeal stands dismissed at the admission stage itself. No costs. Consequently, connected miscellaneous petition stands closed.

9. It appears that the matter stands posted on 17.09.2025, for proclamation of sale. As the suit was laid in the year 2014, the Executing Court shall make endeavour to dispose of the E.P.No.23 of 2016 in O.S.No.151 of 2014 within a period of eight months from the date of the receipt of a copy of this judgment.

10.09.2025

ssn

To

1. The Sessions Judge-Special Court for Trial of Cases
under SC/ST (PoA) Act,
Namakkal.

3. The Section Officer,

6/8



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V.R.Section,
High Court of Madras,
Chennai.

R. KALAIMATHI, J.,

ssn

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