



CRP NO. 4676 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP NO. 4676 of 2025 and CMP No.23707 of 2025

K. Allauddin Badashah

Petitioner

Vs

1. Mohammed Zuber
S.A. Kuthoos (Died)
2.K.Shirajdeen

Respondents

Revision filed under Section 115 of the Civil Procedure Code against the fair and final order dated 23.06.2025 made in E.P.No.26 of 2020 in O.S.No.25 of 2009 on the file of I Additional Subordinate Judge, Erode directing arrest of the petitioner.

For Petitioner : M.Sivavarthanan

For Respondents : No appearnace

ORDER

Heard the learned counsel for the petitioner.



CRP NO. 4676 of 2025

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2. The petitioner is the third judgment debtor in O.S.No.25 of 2009 on the file of Senior Civil Judge, Chikodi. The third defendant/revision petitioner is one of the partners of the first defendant Firm which has suffered a decree in O.S.No.25 of 2009.

3. The respondents/decree holders have sought for transmission of the decree in order to execute the same before the jurisdictional Court viz., I Additional Subordinate Court, Erode. The execution petition has been filed in EP No.26 of 2020 before the I Additional Subordinate Court, Erode to arrest the respondents 2 and the revision petitioner/who is the third respondent in EP No.26 of 2020., who are the partners of the first judgment debtor Firm.

4. Learned counsel for the petitioner would submit that the Managing Partner has passed away and it has been brought to the notice of the executing court besides also giving full particulars of the assets owned by the first defendant Firm. Despite the said fair stand taken by the third respondent in the counter affidavit, learned counsel for the petitioner would submit that the executing court has proceeded to order arrest of the revision petitioner. The executing court has not considered the



CRP NO. 4676 of 2025

fundamental criteria which has to be examined before ordering arrest of the judgment debtors. If only the judgment debtors are possessed of means and they are still dodging the satisfaction of the decree, then, the executing court is empowered to order arrest .

5. Here, admittedly, even in the counter filed to the execution petition, the revision petitioner has disclosed the details of the immovable properties belonging to the first defendant Firm and therefore, the executing court should not have proceeded to arrest and instead given liberty to the respondents/decreed holders to proceed against the assets of the first respondent Firm.

P.B.BALAJI.,J

SR

6. Despite service of notice, the respondents have not chosen to appear either in person or through counsel. In the light of the above, I am inclined to allow the civil revision petition by setting aside the order passed in EP No.26 of 2020 in O.S.No.25 of 2009.

7. Accordingly, the order passed in EP No.26 of 2020 is set aside and the civil revision petition is allowed and the respondents are at liberty to file appropriate execution petition to bring the properties of the first defendant firm for



CRP NO. 4676 of 2025

attachment/sale in accordance with law.

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No costs. Consequently, connected miscellaneous petition is closed.

18-11-2025

Index:yes/no

Website:yes/no

Speaking Order/Non-Speaking Order

To

The I Additional Subordinate Court, Erode

CRP No.4676 of 2025