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CRP.No.45 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

**THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA**

**CRP NO. 45 of 2025**

M. Periyannan  
S/o. Late. Mariyannagounder, Kombuthottam,  
Kuttipalayam Post, Bhavani, Erode Dt.

..Petitioner

**Vs**

P. Manoharan  
S/o. Pattappan, Kavundampudur, Kuttipalayam Post,  
Bhavani Taluk, Erode Dt.

..Respondent

Prayer : Civil Revision Petition filed under Section 115 of CPC, as against the  
Fair and Decretal order dated 13.09.2024 made in E.P.No.92 of 2022 in  
O.S.No.88 of 2005 passed by the Subordinate Judge, Bhavani.

**For Petitioner : Mr.V.Kadhirvelu**

**For Respondent : Mr.D.Irusappan**



CRP.No.45 of 2025

WEB COPY

## **ORDER**

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 13.09.2024 in E.P.No.92 of 2022 in O.S.No.88 of 2005 on the file of Subordinate Court, Bhavani.

2. The brief facts of the case is as under:-

(a) The petitioner is the decree holder/plaintiff. He had filed O.S.No.88 of 2005 on the file of the Sub Court, Bhavani, for recovery of a sum of Rs.1,53,973/-.

(b) The trial court, by judgment and decree dated 03.03.2006, decreed the suit and directed the respondent/defendant to pay to the plaintiff a sum of Rs.1,54,425/- with subsequent interest on Rs.1,25,000/- at the rate of 12% p.a., from the date of suit till date of decree and 6% p.a., after decree till date of realisation. The defendant was also directed to pay a sum of Rs.13,704.75 being the cost of the suit.

(c) The respondent/defendant has not filed any appeal against the decreetal order. The petitioner had filed E.P.No.92 of 2022 for recovery of the amount. The respondent had filed a counter contending that the Execution Petition was



CRP.No.45 of 2025

WEB COPY

barred by limitation since it was filed beyond the period of 12 years from the date of the decree.

(d) The Executing Court holding that the limitation period started from 03.03.2006 and ends on 03.03.2018 and that the E.P., had been filed beyond the period of limitation, dismissed the E.P.

(e) Challenging the same, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioner would submit that E.P., had been filed on 22.12.2017 within the period of limitation, whereas, the Executing Court on wrong noting of facts and entries, had dismissed the E.P., stating that the same is barred by limitation.

4. He would further submit that original entries would show that the E.P., was filed on 22.12.2017. The Execution Petition though dated 21.12.2017 was presented on 22.12.2017 and it is within the period of limitation, whereas, the Executing Court had wrongly held that E.P., was filed on 28.09.2018.



CRP.No.45 of 2025

**WEB COPY** 5. The learned counsel for the respondent filed counter affidavit and submitted that Executing Court, finding that E.P., has been filed on 28.09.2018, held that it is barred by limitation under Article 136 of Limitation Act and had rightly rejected the Execution Petition.

6. Since it was submitted by the learned counsel for the petitioner that as per the entries in the original bundle, E.P., had been filed on 22.12.2017, this court, earlier by order dated 09.01.2025 had called for the original records in E.P.No.92 of 2022 and the endorsement made by the Executing Court in the docket sheets. Accordingly, the original bundle has been received from the Executing Court. A perusal of the original records would show that E.P., has been filed on 22.12.2017 and it is within the period of limitation, whereas, the Executing Court, on wrong noting of entries, had erroneously dismissed the E.P., stating that it is barred by limitation.

7. This Court, having verified the original records and satisfied that the E.P., has been filed within time, is inclined to set aside the order passed by the Executing Court. Accordingly, this Civil Revision petition is allowed. The



CRP.No.45 of 2025

order passed in E.P.No.92 of 2022 in O.S.No.88 of 2005 dated 13.09.2024 is

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set aside. The Executing Court is directed to dispose of the E.P., within a period of three months from the date of receipt of a copy of this order. The parties are directed to appear before the Executing Court on 03.06.2025.

**09-04-2025**

**Note:**

**Registry is directed to return the original bundle to the concerned court immediately.**

nvsri

To

1.The learned Subordinate Court Judge,  
Subordinate Court, Bhavani.

2. P. Manoharan

S/o. Pattappan, Kavundampudur, Kuttipalayam Post,  
Bhavani Taluk, Erode Dt.



WEB COPY



CRP.No.45 of 2025

**A.D.JAGADISH CHANDIRA, J.**

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**C.R.P.No.45 of 2025**

**09.04.2025**