



C.R.P.No.4946 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.4946 of 2025

M.Parimala, Assignee

... Petitioner

Vs.

P.Subramaniya Naicker (deceased)

1.S.Rajendran

2.Mohan

3.Smt.Vasanth

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the docket order dated 26.09.2025 passed by the Principal Subordinate Court, Kancheepuram in unnumbered petition E.A.Sr.No.5081 of 2025 and may be taken the same on file.

For Petitioner : Mr.P.G.Kumaraguru

For Respondents : No appearance



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ORDER

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This Civil Revision Petition has been filed to set aside the docket order dated 26.09.2025 passed by the Principal Subordinate Court, Kancheepuram in unnumbered petition E.A.Sr.No.5081/2025 and may be taken the same on file.

2. Heard Mr. P.G.Kumaraguru, learned counsel for the revision petitioner.

3. The petitioner is the decree holder. He had filed execution petition to execute the decree in O.S.No.39/2005 in E.P.No.2/2012. Pending the execution petition, the first judgement debtor died and the petitioner has filed an application to implead the legal heirs. The said application came to be allowed on 04.12.2024 and thereafter, the petitioner has taken out the application to permit the petition to carry out necessary consequential amendments. It appears that the said application has been returned and thereafter, the executing court has proceeded to dismiss the execution petition, as no steps taken by the decree holder and that the execution petition has become infructuous on account of the death of first judgement debtor. The said



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adjudication dated 26.03.2025, is erroneous for the simple reason that consequent to the demise of first judgement debtor, the application filed in E.A.No.1/2024 to bring on record the legal representatives having been allowed by the executing court on 04.12.2024, the executing court was clearly in error in holding that the execution petition has become infructuous due to the death of first respondent.

4. Be that as it may, admittedly the petitioner has taken out the application to carry out necessary amendments pursuant to the order in E.A.No.1/2024 within a span of two weeks. In such circumstances, it was not proper for the executing court to dismiss the execution petition as infructuous. Further, as rightly pointed out by the learned counsel for the revision petitioner, I find that on filing of the application, the Court has initially ordered notice to the respondents' counsel, returnable by 24.09.2025. However, the same has been struck off and thereafter, the petition has been returned as if correct provisions of law is to be stated. It is thereafter that the execution petition has been dismissed as indicated herein above. This Court has



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repeatedly held that the Court shall not pass judicial orders at the stage of numbering and court are only performing a ministerial act. Similarly in the present case as well, when the application for permitting the amendment to be carried out has been rightly filed within a period of two weeks, the said application should have been taken up instead of returning the said application and dismissing the execution petition. The executing court should have entertained the application filed by the petitioner, instead of returning to state the correct provisions of law. However, when compliance was made on 19.08.2025, the executing court has again returned the application on 26.09.2025.

5. In the light of the above, I am inclined to set aside the order dated 26.09.2025 and the execution petition shall stand restored to file. The executing court shall number the application filed for permitting the petitioner to carry out necessary amendments and dispose of the same on merits in accordance with law within a period of four weeks. The original applications along with the affidavit filed



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by the petitioner along with the civil revision petition shall be returned to the counsel for the petitioner after getting the acknowledgment for enabling the petitioner to represent the same before the executing court.

6. The learned counsel for the petitioner also invited my attention to the memorandum of grounds for revision, more specifically Ground No.11. It appears that in view of the above there is a *prima facie* apprehension that the petitioner may not get fair hearing before the said court and the apprehension is also genuine and in view of the same, I am inclined to *suo motu* transfer the execution petition to the file of the Additional Sub Court, Kancheepuram.

7. Accordingly, this Civil Revision Petition is disposed of. No costs.

20.11.2025

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

mtl



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P.B.BALAJI, J.

mtl

To

- 1.The Principal Subordinate Court, Kancheepuram.
2. The Additional Sub Court, Kancheepuram.
- 3.The Section Officer, VR Section, High Court, Madras.

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