



C.M.P.(MD)Nos.5174 & 5199 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**C.M.P.(MD)Nos.5174 & 5199 of 2025
and
A.S(MD)Nos.112 & 113 of 2021**

In A.S.(MD)No.112 of 2021 : -

A.Velappan Pillai

.... Appellant / 1st Defendant
(in both Appeal Suits)

Vs.

Akilm Bankers,
PPM Complex,
Main Road, Marthandam,
Nailoor Village,
Vilavancode Taluk,
Kanyakumari District,
Represented by its Proprietor,
V.Ramakrishna Pillai (Died).

1.R.Vijayalakshmi

2.R.V.Sivaraman

3.R.V.Sivasakthikala

... Respondents 1 to 3 / Plaintiffs

4.A.Chakara Dhas

... 4th Respondent / 2nd Defendant



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5. The Competent Authority,
District Revenue Officer,
Madurai.

... Respondent
(in both Appeal suits)

(5th Respondent is impleaded as per common order
of this Court dated 02.04.2025 made in
C.M.P.(MD)Nos.11047 & 11053 of 2023 in A.S.(MD)Nos.112 of 2021
and 113 of 2021 respectively by GRSJ & MJRJ)

Common Prayer : Civil Miscellaneous Petitions filed under Order 38 Rule 9
of CPC, to raise attachment of properties attached vide Order dated 16.12.2003
in I.A No.1113 of 2002 in O.S No.235 of 2002 (now renumbered as O.S No.30
of 2004) and I.A No.1144 of 2002 in O.S No.236 of 2002 (now renumbered as
O.S No.31 of 2004) by retaining the Schedule Properties mentioned in the
petition.

For Appellants : Mrs.N.Krishnaveni, Senior Counsel
for Mr.Gnanagurunathan

For Respondents : Mr.H.Elango for R1 to R3

: Mr.SRA.Ramachandran
Special Government Pleader for R5

(in both Appeal Suits): No appearance for R4



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COMMON ORDER

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(Order of the Court was made by G.R.SWAMINATHAN, J.)

The appellant challenges the judgment and decree dated 22.06.2018 in OS Nos.30 and 31 of 2004 on the file of the Principal District Judge, Kanyakumari at Nagercoil. O.S No.30 of 2004 was filed for recovery of a sum of Rs.11,42,750/- with interest. O.S No.31 of 2004 was filed for recovery of a sum of Rs.20,65,350/- with interest. The suits had been decreed and the only question that was projected for consideration was the rate of interest chargeable. We originally thought that the issue can be resolved by applying the provisions of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. In fact, we had even dictated the judgment in the open Court. Later, we realised that there was a contrary Division Bench decision rendered in *Sri Kalpatharu Financiers v. Natarajan (2012 4 MLJ 187)*. We had therefore referred the matter for constituting a Larger Bench vide order dated 17.06.2025 in AS (MD)No.102 of 2024. It may not therefore be possible to dispose of these appeals finally. We therefore propose to dispose of the CMPs alone.

2.The learned Senior Counsel for the appellant states that the total dues payable to Akilam Bankers may not exceed one crore of rupees. But properties



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worth more than Rs.6.00 crores have been attached. Taking into account the value of the various items, we are of the view that the attachment effected in respect of Items 1 to 4 set out in the Schedule to the C.M.P.(MD)Nos.5174 & 5199 of 2025 shall continue till the appellant clears his dues. The other items are released from the attachment.

3.It is seen that the documents pertaining to the properties have been seized by the police. It is open to the appellant to apply to the TNPID court for getting back the documents in respect of the properties that have been released from attachment. C.M.P.(MD)Nos.5174 & 5199 of 2025 are partly allowed on the above terms.

(G.R.S, J.) & (M.J.R,J.)

15.04.2025

Index : Yes / No
Internet : Yes/ No
rmi/SKM

To:

The Principal District Court, Kanyakumari Division at Nagercoil.

Copy to:

The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.R.SWAMINATHAN, J

and

M.JOTHIRAMAN, J.

rmi/SKM

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