



C.R.P.(MD)No.3131 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.3131 of 2024

Regina Packiyavathi Nadachi (Died)

1.Rajayyan

2.Prabahavathi Princilla Snehabai

3.V.R.Rajkumar

4.V.R.Rajasingh

5.V.R.Rajeshwar

6.V.R.Rajeev

7.V.R.Sajjiv

... Petitioners/Decree Holders/
Plaintiffs 2 to 8

Vs.

Pushparaj

... Respondent/Judgment Creditor/
Defendant

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order, dated 06.03.2024 made in E.P.No.36 of 2007 in O.S.No.412 of 1995 on the file of the Principal District Munsif Court, Padmanabhapuram.

For Petitioners : Mr.G.Sridharan

For Respondent : Mr.H.Thayumanaswamy



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ORDER

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This revision petition has been filed to set aside the fair and decreetal order, dated 06.03.2024 made in E.P.No.36 of 2007 in O.S.No. 412 of 1995 on the file of the Principal District Munsif Court, Padmanabhapuram.

2.The facts in brief:

Suit for damages was filed by this revision petitioner against the respondent and others; Decree was passed as prayed for with costs. To execute the decree E.P.No.36 of 2007 was filed by this revision petitioner before the Principal District Munsif, Padmanabhapuram. It came to be dismissed by the execution court stating that the decree was passed jointly and so execution petition filed against one of the judgment debtors is not permissible. For that purpose, it would rely upon the decision of the Andhra Pradesh High Court in the case of ***Damera Barsimha Reddy Vs. Syed Ibrahim and others*** reported in ***AIR 2005 AP 482***. Against the dismissal order this revision petitioner is preferred.

3.Heard both sides.



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4.The learned counsel for the petitioner would submit that the decree does not read that it is a joint and several liability. The execution petition was filed on the premise that the entire responsibility to discharge the decree amount lies only upon the respondent herein, since it is only at his instance the damage was caused to his property. He also deposited Rs.10,000/- towards the decree amount to the Court. So according to him, the order passed by the execution court is *per se* illegal and requires to be interfered.

5.Per contra the learned counsel for the respondent would submit that it is not a joint and several liability issue. It is only a joint liability. So as per the Judgment of the Andhra Pradesh High Court cited supra, execution cannot be initiated against one of the joint debtors. According to him, the order passed is valid and apart from that he has also submitted that he also deposited his share amount of the decree amount. The revision petitioner can proceed against the other debtors. Without impleading them and without taking action against them dragging this respondent is improper.



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6. At the time of passing the order, a clarification was sought from the petitioner as to why he has omitted to implead all the joint debtors. He would submit that he is ready to implead them also in the petition, if the matter is remitted back.

7. So without going into other aspects, this civil revision petition is disposed of with liberty to the revision petitioner to file impleading petition in the execution petition. The matter is remitted back to the execution Court. The execution court is directed to restore the Execution Petition to its file and proceed in accordance with law. After the impleading process is over, the revision petitioner is permitted to withdraw the amount deposited by the respondent before the execution court. No costs.

20.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

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1.The Principal District Munsif, Padmanabhapuram.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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