



C.R.P.(MD)[NPD]No.1866 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 09.07.2025**

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**CORAM**

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**C.R.P.[NPD](MD)No.1866 of 2025**

**and**

**C.M.P.(MD).No.10313 of 2025**

S.P.Elangovan

...Petitioner

Vs.

1.Mathusri Akkaboi Ammanichathiram Charities,  
Pattukottai represented by its alleged  
Hereditary Trustee S.Anandkumar

Subbaiya Naidu (died)  
Perumal Naidu (died)  
Ramasamy Naidu (died)

2.Nagalakshmi

3.S.P.Elavarasan

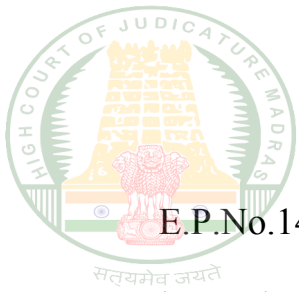
4.S.P.Venkadeshnan

5.S.P.Anbazhagan

6.V.Anusiya Devi

...Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order in E.A.No.2 of 2024 in



**C.R.P.(MD)/NPD/No.1866 of 2025**

E.P.No.142 of 2001 in O.S.No.332 of 1975 dated 04.03.2025 on the file of the learned District Munsif, Pattukottai.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.Niranjan S.Kumar

### **ORDER**

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 04.03.2025 made in E.A.No.2 of 2024 in E.P.No.142 of 2001 in O.S.No.332 of 1975 on the file of the District Munsif, Pattukottai.

2.The learned counsel appearing for the petitioner would submit that the first respondent filed a suit in O.S.No.332 of 1975 against one Subbiah for recovery of possession and the said suit was decreed ex parte on 30.10.1975 by the District Munsif Court, Pattukottai. Neither Subbiah nor his son took steps to set aside the ex parte decree within the prescribed period. Subsequently, in 1997, the first respondent filed E.P.No.142 of 2001 to execute the said decree. The petitioner, being the grandson of Subbiah Naidu and legal heir of one Perumal, filed E.A.No.2 of 2024 seeking stay of further proceedings in E.P.No. 142 of 2001, which came to be dismissed by the trial Court on 04.03.2025. Aggrieved by the said dismissal, the petitioner has approached this Court.



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2.(i). The learned counsel further submits that in 2017, the petitioner filed a suit in O.S.No.239 of 2017 seeking declaration that the decree passed in O.S.No.332 of 1975 is null and void and the suit is still pending. In view of the pendency of the said suit, a direction may be issued to the trial Court to dispose of both E.P.No.142 of 2001 and O.S.No.239 of 2017 within a time frame.

3. Per contra, the learned counsel appearing for the respondents submitted that the decree in O.S.No.332 of 1975 was passed on 30.10.1975. The execution petition was filed in 1997 within the period of limitation and numbered as E.P.No.142 of 2001 and delivery was ordered on 20.03.2017. During the course of executing the decree, the petitioner and others obstructed the process by attacking the Amin, who filed a report before the trial Court. Despite the obstruction, delivery was effected. The earlier obstruction petition filed by the petitioner was dismissed. A Civil Revision Petition in C.R.P.No.264 of 2005 filed by the petitioner and another one Ramasamy Naidu was also dismissed. Further, O.S.No.239 of 2017 filed by the petitioner was dismissed for default on 26.08.2019. A restoration petition was allowed conditionally in I.A.No.122 of 2021, but the petitioner failed to comply with the condition. Again, another I.A.No.1 of 2022 was filed to restore the suit, and ultimately the suit was



restored. The learned counsel contended that the entire conduct of the petitioner shows that the intent is to delay execution of the decree and deprive the decree holder of the fruits of the litigation. He relied on the decision reported in 2023 LiveLaw (SC) 712, wherein the Hon'ble Supreme Court held that a judgment debtor cannot be allowed to indefinitely delay execution of a decree.

4. This Court has carefully considered the submissions of both sides and perused the materials placed on record.

5. It is an admitted fact that the suit in O.S.No.332 of 1975 was decreed ex parte on 30.10.1975. It is also not in dispute that neither the original defendant Subbiah nor his son took any effective steps to get the decree set aside. The execution petition in E.P.No.142 of 2001 was filed within the period of limitation. Delivery was also ordered and attempted. The petitioner's efforts to stall the delivery through obstruction petitions and a Civil Revision Petition have already been unsuccessful. Though the petitioner filed a fresh suit in O.S.No.239 of 2017 to declare the earlier decree as null and void, the said suit was dismissed for default and restored thereafter. Citing the pendency of that suit, the petitioner sought stay of execution proceedings by invoking Order XXI



**C.R.P.(MD)/NPD/No.1866 of 2025**

**Rule 29 CPC through E.A.No.2 of 2024, which was rightly dismissed by the trial Court.**

6. This Court finds no legal infirmity in the order passed by the trial Court in dismissing the said petition. However, considering that a suit challenging the earlier decree is pending, this Court is of the view that both matters must be disposed of expeditiously in the interest of justice.

7. In view of the above, this Court finds no merit in interfering with the order dated 04.03.2025 passed by the District Munsif, Pattukottai in E.A.No.2 of 2024. However, this Court directs the learned District Munsif, Pattukottai to dispose of E.P.No.142 of 2001 and O.S.No.239 of 2017 on merits and in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order.

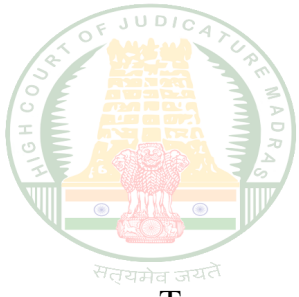
8. Accordingly, the Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

**09.07.2025**

Internet: Yes/No

Index: Yes/No

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**C.R.P.(MD)/NPD/No.1866 of 2025**

To  
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- 1.The District Munsif, Pattukottai.
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**C.R.P.(MD)/NPD/No.1866 of 2025**

**M.DHANDAPANI, J.**

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**C.R.P.(MD)No.1866 of 2025**

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