



CRP(MD). No.1913 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24/07/2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1913 of 2025
and CMP(MD) No.10797 of 2025**

P.S.A.Rajaguru

... Petitioner

Vs

P.S.D.Nagamani Marthandam (Died)
P.S.D.N.Chandrapushpam (Died)

Santhakumari,
D/o. P.S.D.Nagamani Marthandam

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of The Constitution of India against the fair and decreetal order passed in EP No.9 of 1999 in OS No.89 of 1981, on the file of Sub Court, Kovilpatti dated 16.06.2025.

For Petitioner : Mr.V.R.Shanmuganathan

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order passed in EP No.9 of 1999 in OS No.89 of 1981, on the file of Sub Court, Kovilpatti dated 16.06.2025.



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2. The petitioner is the plaintiff in OS No.89/1981. The said suit is instituted for recovery of money against one Srinarayanassamy Talkies, Kovilpatti and its partners and the said suit was decreed on 14.07.1986. Pursuant to the said decree, the petitioner filed EP No.72/1990 and the 5th defendant has already paid Rs.1,00,000/-. The petitioner filed EP No. 9/1999 to realize the amount from the legal heir of the 7th defendant and the 7th defendant's property was auctioned and the property was purchased by the petitioner's wife. Aggrieved by the said purchase, the 7th defendant filed EA No.19/1999 in EP No.9/1999 and pending EP No. 9/1999, the 7th defendant died and his legal heirs were impleaded as 2nd and 3rd respondents and during the pendency of the execution proceedings, the 2nd respondent wife/7th defendant's wife also died and thereafter the third respondent daughter alone available and she filed a counter stating that till the disposal of EA No.19/1999, no proceedings can be initiated in the execution proceedings. In E.P.No.9/1999, the respondent stated that she was not the owner of the property and it is a joint family property. The said EP No.9/1999 was dismissed on the ground that the petitioner has failed to establish the property is the joint family property and other co-sharers have got right in the property and



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the petitioner has suppressed the realization of part amount by one of the defendant. Against the said dismissal, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the property purchased by the petitioner from the 7th defendant, which is the subject matter of the Civil Revision Petition, is not sufficient to recover the money as per the decree and thereby the present property was sought for attachment before the trial Court for alienation and for recovery of the balance amount vide EP No.9/1999. However, the respondent contested the matter before the trial Court by contending that her father was not the owner of the property and he is one of the co-sharer and unless the other owners of the property were impleaded, no execution can take place. The said execution proceedings came to be dismissed. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the trial Court dismissed the petition mainly on the ground that the documents to prove that share of the 7th defendant and the legal heir/respondent herein were not produced before the trial Court. He would further submit that in

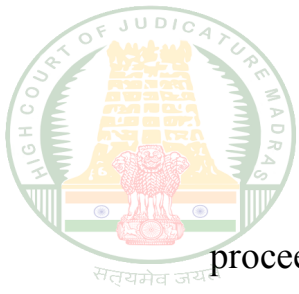


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the interregnum, EA No.19/1999 was also dismissed on 16.06.2025 and hence, there is no impediment for the trial Court to decide the present execution petition. However, the learned counsel would submit that liberty may be granted to the petitioner to file fresh EP against the defendants 1,2,3,4 and 6 and if amount is not recovered, proceedings can be initiated against the 7th defendant.

5. I have considered the rival submissions and perused the materials available on record.

6. The suit is filed for recovery of money in the year 1981 and the same was decreed in favour of the petitioner herein and the petitioner has also filed an execution proceedings, in which, EA was filed by the legal heir of the 7th defendant/respondent to stay the execution proceedings. The said petition came to be dismissed on 16.06.2025. Simultaneously the execution proceedings was also dismissed. However, since the amount has not yet been realized fully as per the decree, the petitioner is at liberty to file a fresh execution proceedings against the defendants 1 to 4 and 6 and if the amount is not realized, the petitioner is at liberty to



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proceed against the legal heir of the 7th defendant/respondent in the manner known to law.

7. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently connected Miscellaneous Petition is closed.

24.07.2025

NCC : Yes/No
Index : Yes/No
RR

TO

1.The Sub Court, Kovilpatti

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1913 of 2025**

Date : 24/07/2025