



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1812 of 2017

Santhanam @ Sundaraj

...Petitioner

Vs.

1.A.P.Sanmugavel (died)

2.Meenakshi (Died)

3.Muruganantham

4.Aparnatham

5.Nagaraj

6.Balu

7.Rajam

8.Rajamayandi

9.Esakkiappan

10.Muthubharathi

11.M.Geetha

12.E.Arumugam

...Respondents

(Respondent Nos.3 to 7 are brought on record as legal representatives of the deceased 1st respondent vide Court order dated 04.11.2024 made in C.M.P. (MD).Nos.10688, 10689 ad 10690 of 2023 in CRP.(MD).No.1812 of 2017)



(Respondent Nos.8 to 10 are brought on record as legal representatives of the deceased 2nd respondent vide Court order dated 12.04.2024 made in C.M.P.(MD).Nos.10692, 10693 and 10695 of 2023 in CRP.(MD).No.1812 of 2017)

(The Respondent Nos.11 and 12 are impleaded vide Court order dated 03.06.2025 made in C.M.P.(MD).No.7325 of 2023 in CRP.(MD).No.1812 of 2017)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in C.M.A.No.14 of 2012 dated 02.09.2015 on the file of the Sub Court, Ambasamudram, to confirm the fair and decreetal order passed in I.A.No.245 of 2012 made in O.S.No.182 of 2006, dated 11.06.2012 on the file of the Principal Munsif Court, Ambasamudram.

For Petitioner : Mr.H.Arumugam

For R-11 & R-12 : Mr.I.Pinaygash

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ORDER

This petition has been filed seeking to set aside the fair and decreetal order passed in C.M.A.No.14 of 2012 dated 02.09.2015 on the file of the Sub Court, Ambasamudram, to confirm the fair and decreetal order passed in I.A.No.245 of 2012 made in O.S.No.182 of 2006, dated 11.06.2012 on the file of the Principal Munsif Court, Ambasamudram.

2. The petitioner has filed a suit in O.S.No.182 of 2006 before the learned Sub Judge, Ambasamudram, seeking permanent injunction restraining the respondents from interfering with the petitioner's peaceful possession and



enjoyment of the property. The above said suit was dismissed for default on 01.02.2012. Thereafter, the petitioner filed an Interlocutory Application in I.A.No.245 of 2012 under Order IX Rule 9 of C.P.C. before the learned Principal District Munsif, Ambasamudram, to restore the suit. However, the said petition was dismissed on 11.06.2012. Thereafter, the petitioner filed an appeal in C.M.A.No.14 of 2012 to set aside the said Interlocutory Application and the same was dismissed on 02.09.2015. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the respondents initiated a case based on promissory notes in S.C. No.85 of 1998 on the file of the District Munsif Court, Ambasamudram. Subsequently, a compromise arrived between the petitioner and the first respondent, and the petitioner paid the entire decree amount. However, the first respondent did not take any steps to set aside the decree by recording the compromise memo, instead, he proceeded with the execution petition and obtained an order. The property was brought to auction through E.P. No.100 of 1999. Even though the petitioner paid the entire decree amount, including expenses amounting to a total of Rs.95,000/-, the first respondent did not act accordingly. In the meantime, the petitioner has filed the suit in O.S. No.182 of 2006. However, the said suit was dismissed for non-appearance of the petitioner before the trial Court on 01.02.2012. Against which, he filed I.A.No.245 of 2012 to set aside



the dismissal order, but the said I.A. was dismissed on 11.06.2012. Thereafter, the petitioner filed C.M.A. No.14 of 2012 before the Sub Court, Ambasamudram, and the same was dismissed on 02.09.2015.

4. Per contra, the learned counsel appearing for respondent Nos.11 and 12 would submit that, admittedly, the petitioner borrowed money from the deceased first respondent, by executing a promissory note. Since the said amount was not repaid, the deceased first respondent filed a case in S.C.No.85 of 1998, which was decreed in his favour. As the amount remained unpaid, the first respondent filed E.P. No.100 of 1999 and brought the property to auction, in which he himself purchased the property. The petitioner has filed several applications before the lower Court merely to drag on the proceedings.

5. Admittedly, the suit was filed in the year 2006. When the suit was listed for trial on 08.04.2008, the petitioner was called absent, and the suit was dismissed for default on the same day. Pursuant to the order passed by this Court in I.A.No.360 of 2008, the suit was restored on 30.09.2008. After restoration, the suit was listed for trial on 10.11.2008. On that date, the petitioner filed a petition to implead the second respondent in the original suit, which was allowed by the trial Court, and the consequential amendment was carried out. The case was again posted for trial on 07.01.2011. On that date also, without producing any evidence, the petitioner filed a petition to amend



the plaintiff. The said interim application was dismissed in I.A. No.56 of 2011 on 02.08.2011. After dismissal of the said petition, the suit was posted for the petitioner's side evidence. However, even then, the petitioner failed to produce any witnesses and instead filed a petition under Section 151 of C.P.C. seeking to stay further proceedings in the original suit. The said petition was dismissed by the trial Court in I.A. No.1078 of 2011 on 23.12.2011. Subsequently, the case was posted on 10.01.2012, 24.01.2012, and 01.02.2012 for production of petitioner's side evidence. Ultimately, on 01.02.2012, due to the non-appearance of the petitioner, the suit was once again dismissed for default.

6. Even though Sufficient opportunity was granted to the petitioner, he did not appear before the trial Court. Hence, this Court is of the opinion that the order passed by the trial Court does not warrant interference

7. Accordingly, this Civil Revision Petition stands dismissed. No costs.

03.06.2025

Internet: Yes/No
Index: Yes/No
TSG

To
The Principal District Munsif, Ambasamudram.



C.R.P.(PD)(MD)No.1812 of 2017



2.The Section Officer,
VR Section,

Madurai Bench of Madras High Court, Madurai.

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M.DHANDAPANI, J.

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