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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.1867 of 2017 and
C.M.P.(MD)Nos.9749 and 9750 of 2017

1.C.Murugan

2.Sivakumar

3.N.Padmanabaraj

... Petitioners

-VS.-

1.M/s.Sriram Chits Tamil Nadu (P) Limited,
represented by its Anna Nagar Branch Foreman,
Madurai -20.

2.N.Balamurugan

3.The Regional Manager,
TNSTC Madurai Limited, TNSTC Regional Office,
Bye Pass Road, Ellis Nagar, Madurai – 20.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside order in E.P.No.92 of 2016 in C.D.No.34 of 2016 passed by the Additional District Munsif Court, Madurai on 22.08.2017.

For Petitioners	:Mr.R.Ramasamy
For R1	:Mr.V.Nagarajan
For R2	:Died
For R3	:No appearance



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ORDER

The Revision Petitioners have challenged the order passed by the learned Additional District Munsif, Madurai in E.P.No.92 of 2016, dated 22.08.2017.

2.The learned Counsel for the petitioners contended that the second respondent, namely, Balamurugan, is the principal borrower and the petitioners are the guarantors and they came to know about the proceedings only at the EP stage by way of garnishee notice. According to the revision petitioners, the said beneficiary, Balamurugan, died on 10.09.2014.

3.The learned Counsel for the petitioners further contended that the legal heirs of the second respondent, Balamurugan, have valid property, against whom the first respondent could have proceeded. However, for the reasons best known to them, they have proceeded against the guarantors, the petitioners herein. Though the submissions do not find consideration of this Court, however, a submission made by the petitioners is that after the demise of Balamurugan, even at the time of filing the execution petition, the first



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respondent has not made a mention about the death of the beneficiary. Apart from this, a sum of Rs.5,000/- has been deducted from the account of the beneficiary towards the insurance policy.

4.The learned Counsel for the petitioners further contended that the first respondent was not aware of the death of the beneficiary and without even knowing the beneficiary, a sum of Rs.5,000/- has been deducted towards the insurance. He further submitted that the first respondent had mechanically proceeded in the E.P. Proceedings.

5.It is not in dispute, that, it is for the first respondent to initiate appropriate proceedings to recover the money either from the principal or from the borrower. The Revision Petitioners are the guarantors and their contention is that when the principal borrower is no more on the date of the order passed in C.D.No.34 of 2016 and the legal heirs are having sufficient properties and means, the first respondent ought to have initiated proceedings to recover the same.



6. Though such a question cannot be decided by this Court, the first respondent is at liberty to proceed as against the garnishees. The Executing Court shall look into the fact that on the date of passing the order in C.D.No.34 of 2016, whether the second respondent Balamurugan was alive on that date. There is no documents to show before this Court that the said Balamurugan is no more. The learned Counsel for the first respondent contended that death certificate finds place only in the typed set filed along with the Revision Petition and the death certificate of Balamurugan, principal borrower has not been filed before the Executing Court.

7. This Court is of the view that the first respondent has absolute right vested with them to initiate proceedings against the Revision Petitioners. Accordingly, the present Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

09.01.2025

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No
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To

The Additional District Munsif, Madurai.



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N.SENTHILKUMAR, J.

cmr

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