



C.R.P(MD)No.759 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.01.2025

Pronounced on : 21.02.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.759 of 2023

and

C.M.P(MD)No.3574 of 2023

1.Thangaraj

2.S.Muppidathy ... Revision Petitioners / Respondents 2 and 5

Vs

1.S.Maharaja ... 1st Respondent / Petitioner

2.Balasubramanian

3.Chidambaram

4.Thangammal ... Respondents 2 to 4 / Respondents 1,3 & 4

PRAYER : This Civil Revision petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order made in E.P.No.116 of 2019 in L.S.P.No.368 of 2009 dated 15.02.2022 on the file of the Principal District Court, Tirunelveli, dated 15.02.2022.

For Petitioners : Mr.S.Kumar

For Respondents : Mr.H.Arumugam for R1



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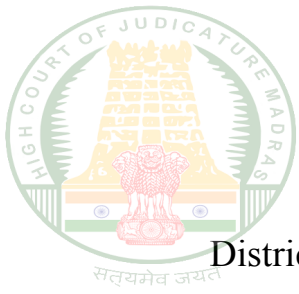
ORDER

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This Civil Revision petition is filed to set aside the fair and decreetal order made in E.P.No.116 of 2019 in L.S.P.No.368 of 2009 dated 15.02.2022 on the file of the Principal District Court, Tirunelveli, dated 15.02.2022.

2. The facts in brief is that the first respondent herein namely Maharaja filed LSP No.368 of 2009 before the District Legal Service Authority, Tirunelveli, against the respondent. An award was passed on 18.09.2019, directing the petitioner herein and others to pay a sum of Rs.6 Lakhs with interest at the rate of 12% per annum from 14.08.2009. On the date of the execution petition, the accrued amount was estimated at Rs.13,26,025/-. So the award was put on execution by filing E.P.No. 116 of 2019.

3. Execution petition was resisted by this revision petitioner and others stating that previous E.P.No.150 of 2010 was not pressed by this petitioner when claim application was filed in E.A.No.156/2011. Later P.Selvam and others filed O.S.No.202 of 2012 before the I Additional



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District Musif Court, Tirunelveli. It was transferred to District Legal Service Authority for compromise. A compromise was reached between the parties. By that compromise, the property was allotted to the mother of the first respondent namely Balasubramanian. Later the mother of the first respondent executed a settlement deed in respect of the first item to him and sold the second item to one Petchiammal and Ramesh. In respect of the items 3 and 4 also, transfer of title are mentioned in the counter which need not be elaborated here. In view of the developments, the order passed LSP.No.368 of 2009 has no legal validity.

4. For which reply counter was filed by the petitioner stating that all the transfers were made to defeat and delay the execution of the decree. The execution Court, after hearing both sides, overturned the objections made by the revision petitioner and others and finally ordered attachment of the property. Against which this revision is preferred.

5. Heard both sides.



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6. We will go to the findings of the execution Court in this regard.

With regard to the adjustment of the decree amount of Rs.5,25,000/- from Malaiaammal, absolutely there is no evidence according to the execution Court. In fact, no evidence was let in by the parties and no document was also produced.

7. As rightly contended by the respondent herein, any adjustment of money after decree, out of the Court, must be certified. For that purpose, he relied upon a judgment of the Hon'ble Supreme Court in the case of **Lakshmi Narayanan Vs S.S.Pandian** reported in **2000 7 SCC 240**. So it is mandatory requirement that adjustment out of the Court after passing the decree must be properly certified. If not certified then it will have no legal effect.

8. Here absolutely there is no evidence on record to show that the petitioner has received a sum of Rs.5,25,000/- from Malaiaammal towards the award amount. So this ground is not available to the revision petitioner herein.



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9. The second ground is that after withdrawal of E.P.No.150 of 2010, Perachi Selvi and others filed O.S.No.202 of 2012 that was also transferred to District Legal Service Authorities and there a compromise was reached between the parties. Properties have been dealt as detailed in the counter affidavit. This document was not produced before the execution Court. But in the typed set of papers it is annexed by the revision petitioner wherein we find that the suit in O.S.No.202 of 2012 is the subject matter of the Lok Adalat award, wherein the decree holder is shown as second defendant / respondent, wherein a joint memo was filed. In the compromise, the petition mentioned properties was allotted to Malaiaammal. After that a settlement deed dated 22.05.2018, was executed by her in favour of the revision petitioner S.Thangaraj. Another sale deed was executed in favour of Petchiammal and Ramesh in respect of the second schedule. Out of the sale consideration of the above said transaction, Maharajan was paid Rs.5,25,000/- that is the contention. But as mentioned above, that contention is devoid of merits. It was rejected.



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10. Now no doubt that as per the compromise, the petition mentioned properties were allotted to Malaiaammal. But without satisfying the decree, it appears that Malaiaammal executed settlement deed in favour of Thangaraj and sold the remaining to the above said persons. This was pointed out by the execution Court stating that it is nothing but an attempt on the part of the Malaiaammal to delay and defeat the decree. When payment of decree money derived from sale was not established by the revision petitioners, then naturally, the property allotted to Malaiaammal must be allowed to be proceeded with.

11. I find absolutely no reason to interfere with the order passed by the learned Principal District Judge, Tirunelveli, made in E.P.No.116 of 2019 in L.S.P.No.368 of 2009 dated 15.02.2022. So this Civil Revision Petition fails and accordingly, dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

21-02-2025

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

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To

- 1.The Principal District Court, Tirunelveli.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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