



C.R..P.(NPD)(MD).No.1194 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.1194 of 2025

and

C.M.P(MD) No.6395 of 2025

Yesudhasan(Died)

1. Mary Maximial

2. Latson Grace Banniya

3. Latson Grace Bansiya

... Revision Petitioners/
Respondents/
Proposed Defendants

(Petitioners 1 to 3 are LR's of the
deceased 1st Defendant/Yesudhasan)

Vs.

Mariadhasan

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., to allow the Civil Revision Petition by setting aside the fair and decreetal order dated 12.08.2024, passed by the learned District Judge, Kanyakumari at Nagercoil in E.P.No.4 of 2022 in O.S.No.37 of 2015.



C.R..P.(NPD)(MD).No.1194 of 2025

For Petitioners : Mr.C.Kishore

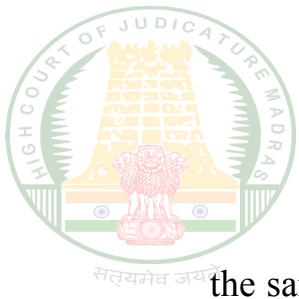
WEB COPY

ORDER

The legal heirs of the judgment debtor in O.S.No.37 of 2015 on the file of the District Court, Kanyakumari at Nagercoil, have filed the present Civil Revision Petition challenging the order of attachment and sale pursuant to a money decree.

2. The respondent herein has filed the above said suit as against the husband of the first revision petitioner for the relief of recovery of money based upon a pronote. The husband of the first revision petitioner had remained *ex parte* and an *ex parte* decree came to be passed on 11.04.2016. The original defendant had passed away on 18.11.2017. The decree holder had filed E.P.No.4 of 2022 to attach and bring the property for sale. The legal heirs of the defendant came to know about the *ex parte* decree only when they received notice in the execution proceedings in January 2019.

3. The legal heirs of the defendant have filed application to set aside the *ex parte* decree. The said application was returned and for representing



C.R..P.(NPD)(MD).No.1194 of 2025

WEB COPY

the same there is a delay of 1555 days. The defendants have filed I.A.No.1 of 2024 to condone the delay. The said application is still pending. In the meantime, the executing Court has passed the impugned order to bring the property for sale. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioners, the suit pronote is a forged document and therefore they have a valid defence in the suit. Since the original defendant has passed away the suit could not be defended properly. The legal heirs came to know about the pendency of the suit and the decree only when they received notice in the execution proceedings. Since the legal heir application has to be numbered, application under Order 9 Rule 13 of C.P.C., cannot be numbered. Hence, he prayed for setting aside the order passed by the executing Court.

5. Even as per the affidavit filed to set aside the *ex parte* decree, the legal heirs of the judgment debtor had knowledge about the *ex parte* decree even in January 2019. So far, the application under Order 9 Rule 13 of C.P.C., or under Section 5 of Limitation Act, has not been filed. There is a delay in



C.R..P.(NPD)(MD).No.1194 of 2025

WEB COPY

representation and the defendants have filed I.A.No.1 of 2024 to condone the delay in representation.

6. Considering the above said facts, this Court is not inclined to entertain the Revision Petition. However, there shall be a direction to the trial Court to dispose of I.A.No.1 of 2024 on or before **30.06.2025**.

7. With the above said observations, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

15.04.2025

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



C.R..P.(NPD)(MD).No.1194 of 2025

WEB COPY

To

1. The learned District Judge,
Kanyakumari at Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R..P.(NPD)(MD).No.1194 of 2025

R.VIJAYAKUMAR,J.

ebsi

C.R.P(NPD)(MD)No.1194 of 2025

15.04.2025