



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 08.12.2025

Order pronounced on : 09.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.3686 of 2025
& CMP.No.19765 of 2025

The State of Tamil Nadu,
Represented by the District Collector,
Tiruvannamalai,
Tiruvannamalai District.

... Petitioner

Vs.

Kannada Veerasaiva Saineegar Sangam,
Arni,
Represented by its Secretary.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the execution proceedings as against this petitioner in E.P.No.69 of 2011 in O.S.No.63 of 1973 on the file of the Subordinate Court, Tiruvannamalai.

For Petitioner : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mrs.R.Anitha
Special Government Pleader



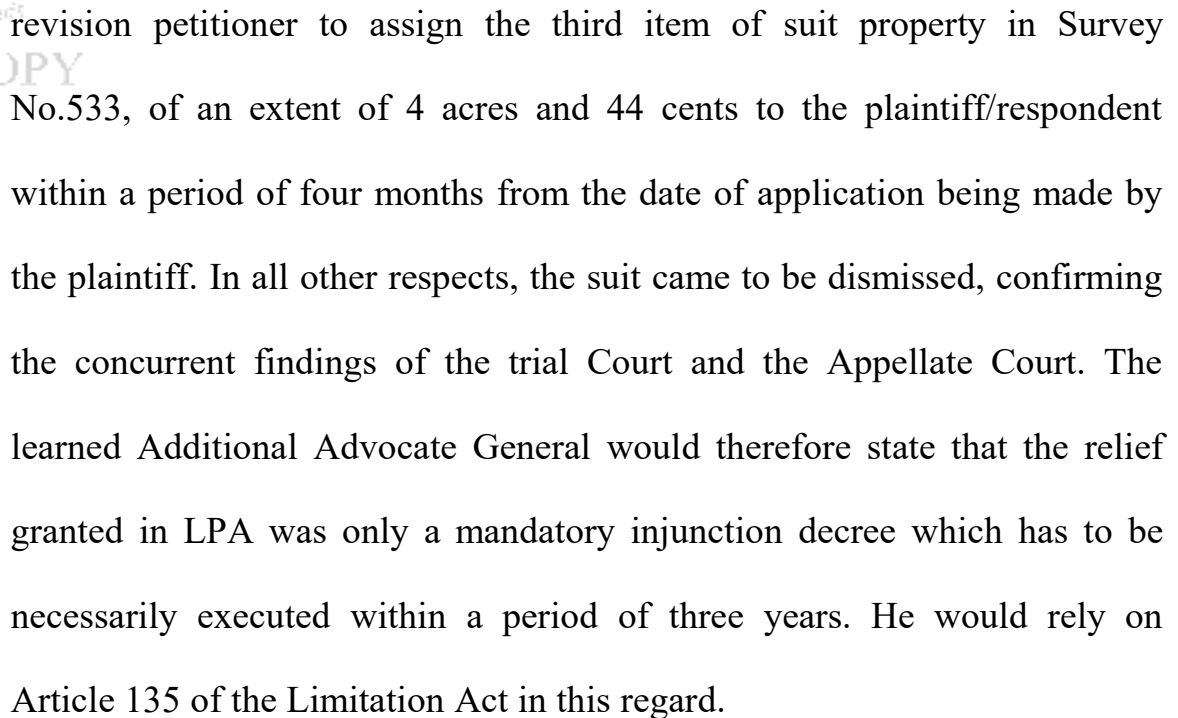
For Respondent : Mr.V.Raghavachari
Senior Counsel
for Mrs.V.Srimathi

ORDER

The judgment debtor is the revision petitioner, seeking to strike off E.P.No.69 of 2011 which has been filed to execute the decree in O.S.No.63 of 1973 as barred by the law of limitation.

2.I have heard Mr.P.Kumaresan, learned Additional Advocate General assisted by Mrs.R.Anitha, learned Special Government Pleader for the petitioner and Mr.V.Raghavachari, learned Senior Counsel for Mrs.V.Srimathi, learned counsel for the respondent.

3.Mr.P.Kumaresan, learned Additional Advocate General would submit that the respondent/decreed holder filed a suit in O.S.No.63 of 1973, for the relief of declaration and delivery of possession. The trial Court, as well as the First Appellate Court (A.S.No.1063 of 1979), dismissed the suit concurrently. However, the further appeal in L.P.A.No.139 of 1988 came to be allowed by this Court on 29.10.1997, granting a decree, directing the

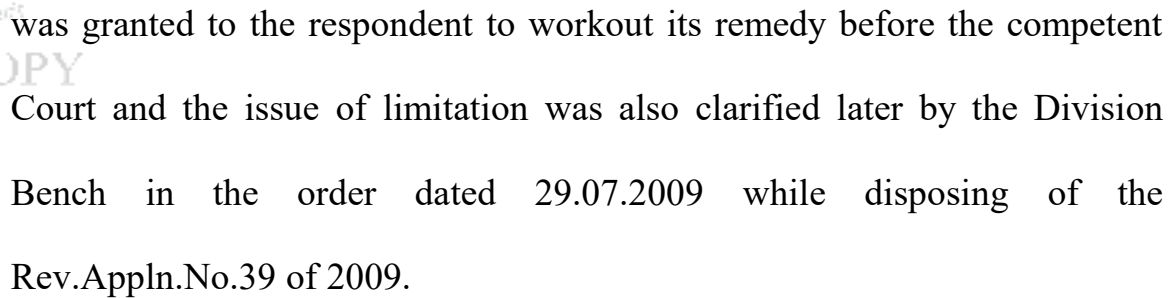


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passed in writ petition and directed the respondent to workout its remedy in an appropriate forum. A review petition in Rev.No.32 of 2009 came to be filed and in the said review, by order dated 29.07.2009, the Division Bench held that as far as the question of limitation, the Bench was not expressing any opinion and it would be open to the respondent to bring it to the notice of the competent Court that they were pursuing the remedy before the writ court which resulted in writ appeal proceedings as well. It is therefore the contention of the learned Additional Advocate General that the subsequent EP filed on 27.08.2009 in E.P.No.69 of 2011 with a direction to assign the 4 acres and 44 cents as originally directed in LPA.No.139 of 1988 on 29.10.1997 is hopelessly barred by the law of limitation.

5.Per contra, Mr.V.Raghavachari, learned Senior Counsel would submit that the earlier execution petitions were not decided on merits, but E.P.No.25 of 1999 came to be dismissed for default alone on 03.04.2003 and the second EP.No.4 of 2005 came to be not pressed on 01.03.2005, on account of W.P.No.21756 of 2000 being allowed on 20.11.2004. He would therefore state that when subsequently the Writ Appellate Court set aside the order passed by the learned Single Judge in the said writ petition, liberty



7.The learned Senior Counsel has placed reliance on the decision of the Division Bench of this Court in *Pentapati China Venkanna and others Vs. Pentapati Bangararaju and others*, reported in *AIR 1964 SC 1454* and



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the judgment of the Hon'ble Supreme Court in *Santi Ranjan Dass Gupta Vs. M/s.Dasuram Mirzamal*, reported in (1976) 2 SCC 1888 and the decision of this Court in *S.Nagarajan Vs. Gudlu K.Ranagasamy Chettiar @ Rangasamy (Deceased) and others*, reported in 2004 SCC Online Mad 478. Relying on the said decisions, the learned Senior Counsel would submit that the present EP cannot be termed as barred by limitation and was very much maintainable in law.

8.I have carefully considered the submissions advanced by the learned Additional Advocate General and the learned Senior Counsel for the parties. I have also gone through the records.

9.It is not in dispute that the suit filed by the respondent was originally dismissed by the trial Court and the First Appellate Court also confirmed the dismissal of the suit, in appeal. However, in LPA.No.139 of 1988, the Division Bench of this Court, by judgment dated 29.10.1997, allowed the LPA, directing the State Government, represented by Collector of North Arcot, Vellore, to assign the third item of the suit property, namely Survey No.543, measuring 4 acres 44 cents to the plaintiff/Sangam within a



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period of four months from the date of application made by the plaintiff. In all other respect, the dismissal of the suit by the trial Court and the First Appellate Court was not interfered with.

10. In order to execute the decree in LPA.No.139 of 1988, the respondent filed E.P.No.25 of 1999, stating that they have made an application on 27.11.1997 within the four month window provided by the Hon'ble Division Bench and despite the same, the revision petitioner had not come forward to comply with the directions issued by the Hon'ble Division Bench.

11. Admittedly, the said execution petition came to be dismissed on 03.04.2003 with the counsel for the respondent reporting no instructions. Thereafter, the writ petition was filed in W.P.No.21756 of 2000 by the respondent seeking issuance of a writ of mandamus to direct the revision petitioner to assign the land in Survey No.533, measuring 4 acres 44 cents in compliance with the decree in LPA.No.139 of 1988 came to be filed. The learned Single Judge of this Court allowed the said writ petition. However, in writ appeal, the Division Bench, by judgment dated 11.09.2007, set aside



the order of the writ court and gave liberty to the respondent to workout its remedy before the appropriate forum. I find that the Division Bench had taken note of the fact that the 1st respondent in the writ appeal, that is the writ petitioner in W.P.No.21756 of 2000 had not even offered proper explanation as to how they claimed to be the plaintiff in the first place.

12.The Division Bench also noticed that the filing of the execution petition and the same being dismissed for non-prosecution was not even disclosed in the writ affidavit and the fact that the subject lands have already been assigned in favour of Melmaruvathur Adhiparasakthi Vara Valipattu Mandram, proceeded to allow the writ petition and thereby set aside the order of the writ court. The review application came to be filed in Rev.Appln.No.39 of 2009 by the respondent/Sangam and with regard to the explanation that the writ petitioner was in fact the plaintiff/decreed holder, the Division Bench clarified that part of the order, where it had held that the writ petitioner has not properly explained its identity.

13.However, with regard to issuance of a writ of mandamus, the Division Bench reiterated the finding in the judgment that the decree of the



civil Court cannot be sought to be executed by way of writ petition.

Finally, the review application was disposed of with the following observation pertaining to limitation *“as far as the limitation is concerned, we are not expressing any opinion, though it will be open to the Kannada Association to bring to the notice of the court of competent jurisdiction that they were pursuing the remedy before the writ court, which gave rights to the writ appeal”*.

14.Relying on the liberty granted by the Division Bench, the respondent has been able to get the execution petition numbered. However, upon appearance, after being served with the notice in the execution petition, the revision petitioner has approached this Court to strike off the execution petition, as barred by limitation. I do not see how extraordinary power under Article 227 of Constitution of India can be exercised, especially when the Division Bench, in the review order, has given liberty to the respondent/Sangam to take advantage of the period lost in pursuing the writ remedy.

15.Though decisions have been relied on by the learned Senior Counsel, Mr.V.Raghavachari, contending that the dismissal of the earlier



execution petitions will not come in the way of the respondent/Sangam to seek relief, since the EP which is now sought to be struck off can only be viewed as a revival of the earlier execution petitions which were admittedly not decided on merits, I am not inclined to go into this issue, having come to the conclusion that the revision to strike off the execution petition under Article 227 of Constitution of India is not maintainable. It is open to the revision petitioner to agitate the question of limitation before the executing Court and the executing Court shall decide the EP on merits and in accordance with law, taking note of the objections with regard to limitation as well as the liberty granted by the Division Bench in the review application by order dated 29.07.2009.

16. With the above observation, the Civil Revision Petition is dismissed. No costs. Connected Civil Miscellaneous Petition is closed.

09.01.2026

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To
The Subordinate Court, Tiruvannamalai.

P.B. BALAJI,J.

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Pre-delivery order made in
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