



CRP No. 5665 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 5665 of 2025

and

CMP No. 28317 of 2025

T.Raja
S/o. Thambi @ Chinnaiyyan,
No.126B, Ashok Nagar, Pachal Post,
Near Union Office, Tirupattur Town.

..Petitioner(s)

Vs

Briz Kishore Dubey (Died),

1.Abhilasha Devi
W/o. Late Briz Kishore Dubey, No.125,
NSC Bose Road, Chennai – 600 079.

2. Satyam Dubey
S/o.Briz Kishore Dubey,
No.125, NSC Bose Road,
Chennai - 600 079.

..Respondent(s)

Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, 1908, to set aside the order dated 13-10-2025 in E.P.No.32 of 2019 in O.S.No.3133 of 2017, on the file of the Sub Court, Tirupattur.

For Petitioner(s): Mr. M.Sivavarthan

For Respondent(s): Mr.T.S.Vijaya raghavan



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ORDER

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This Civil Revision Petition is filed against the order passed in E.P.No.32 of 2019 in O.S.No.3133 of 2017, directing the arrest of the petitioner for failure to comply with the decretal order passed in O.S.No.3133 of 2017 on 31.10.2017.

2. A money suit in O.S.No.3133 of 2017, for recovery of Rs.4,25,000/- together with interest at 24% per annum on the principle amount of Rs.2,50,000/- was filed against the petitioner, on the basis of a promissory note. The suit was decreed *ex parte* on 31.10.2017. Eventhough the petitioner filed an application along with condone delay petition in I.A.No.1 of 2019 to set aside the *ex parte* order, the condone delay petition was dismissed and thereafter the petitioner did not take any steps to set aside the *ex parte* decree, and it attained finality.

3. The decree holder, father of the respondents, filed E.P.No.32 of 2019 and since he died pending the execution petition, the respondents were impleaded as legal heirs. The respondents filed petition for execution of the *ex parte* decree under Order 21 Rule 27 and 28 of CPC. In the E.P. the



impugned order dated 13.10.2025, was passed for arrest of the petitioner.

Therefore, the petitioner filed the above Civil Revision Petition.

4. The learned counsel for the petitioner submitted that the petitioner is a retired Railway employee and that he was ready to settle the entire decretal amount, within reasonable time in installments.

5. The learned counsel for the respondents submitted that the petitioner should not be permitted to pay the entire decretal amount in installments. The learned counsel submitted that the petitioner should be directed to pay an initial lumpsum amount and thereafter, the remaining amount may be permitted to be paid in installments, subject to the petitioner filing an undertaking affidavit to such effect.

6. Today, when the matter was taken up, an undertaking affidavit of the petitioner is filed, setting out the terms of payment. The relevant terms of the undertaking affidavit are as follows:

“3) I state that to satisfy the Decree dated 31.10.2017 in O.S.No.3133 of 2017, the Petitioner herein undertakes to pay the amount to the credit of E.P.No.32 of 2019 in O.S.No.3133 of



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2017 as follows:

i) Upfront payment of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) shall be made by Petitioner on or before 31.03.2026.

ii) Remaining outstanding amount shall be paid by way of instalments every month @ Rs.25,000/- (Rupees Twenty-five Thousand Only) per month.

iii) Every monthly instalment of Rs.25,000/- (Rupees Twenty-five Thousand Only) shall be paid on or before 5th day of that month.

iv) 1st monthly instalment shall be paid on or before 05.05.2026.

4) I state that Petitioner hereby undertakes to continue payment as stated above until the Decree in O.S.No.3133/2017 is satisfied in full.

5) I stat that this Hon'ble Court may be pleased to accept the above arrangement considering the age of the petitioner and his financial status and pass suitable orders in the present CRP."

7. The learned counsel for the respondents, while expressing his consent to the terms of the undertaking, prayed that the respondents may be permitted to withdraw the amounts as and when they are deposited to the credit



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of E.P.No.32 of 2019 in O.S.No. 3133 of 2017.

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8. The aforesaid undertaking affidavit is recorded and the CRP is disposed of in terms of the same. This Court finds that the submission of the learned counsel for the respondents is reasonable and therefore, this Court grants liberty to the respondents to withdraw the amounts as and when the petitioner deposits the amount in E.P.No.32 of 19 in O.S.No.3133 of 2017.

9. However, it is clarified that if, the petitioner fails to comply with the terms of the undertaking, the respondents shall be at liberty to execute the decree as per law.

Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently the connected miscellaneous petition is closed.

11-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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N.MALA J.

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To
The Sub Judge, Tirupattur.

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