

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

CORAM

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 3493 of 2026

1. G. Boopalan
S/O. Gurusamy, Venkateswarapuram, K.K.
Nagar, Pulivalam, Thiruvarur Taluk,
Thiruvarur District.

Petitioner(s)

Vs

1. R. Sithivinayagam
S/O. Packirisamy, Sivam Nagar, Panagal
Salai, Thiruvarur Taluk, Thiruvarur Dt.

Respondent(s)

Revision filed under Section 115 of Civil Procedure Code to set aside the order dated 09.06.2025 passed in E.P No.61 of 2023 in O.S.No.05 of 2007 on the file of Subordinate Judge, Thiruvarur, restore the said Execution Petition to file and directed the learned Subordinate Judge, Thiruvarur to proceed with the execution proceedings forthwith in accordance with law.

For Petitioner(s): M/S. P.Venkatesan

For Respondent(s): Mr.R.T. Vishnu

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

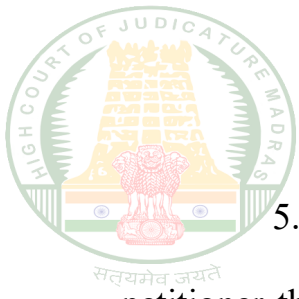


2. Learned counsel for the respondent would bring to my notice

Execution Petition has been terminated on 09.06.2025 and therefore nothing survives for consideration.

3. Learned counsel for the petitioner would however state that the petitioner was in dark about the proceedings and excepting engaging a lawyer and filing written statement, he was not kept informed about the subsequent proceedings. He would also point out to the decree passed by the trial Court and contend that what was passed was only a preliminary decree in favour of the respondent and therefore without passing of final decree, the execution petition itself was improper and could not have been entertained by the executing Court.

4. Admittedly the suit is one for Specific Performance of an agreement of sale . The petitioner had engaged a counsel and also filed written statement contending that it was only a loan transaction and not an agreement of sale to be acted upon. However, the trial court did not accept the version projected by the petitioner and decreed the suit, though it was an exparte decree. The respondent/decreed holder, pursuant to the decree, has filed execution petition for execution of sale deed which also came to be executed by the Court on 03.08.2016 in EP No.27 of 2014. Thereafter, the present Execution Petition was filed for recovery of possession from the petitioner/judgment debtor.



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5. I do not see any merit in the contention of the learned counsel for the petitioner that it is only a preliminary decree and therefore, without passing of a final decree, the execution petition could not have been entertained. Mere addition of the word “ முதல் நிலை “ would not change the character of the decree. The suit is one for Specific Performance and since the respondent/decreed holder was obligated to pay the balance sale consideration, the decree has been worded as such.

6. I do not find the said decree to be a preliminary decree warranting passing of a final decree before coming enforceable. Hence, the argument of the learned counsel for the petitioner in this regard is rejected. As already stated, the Execution Petition has been terminated on 09.06.2025 and the present revision is only challenging the order in the execution petition.

7. In view of the above fact that the execution petition has been terminated, nothing survives for consideration in this revision.

8. It is needless to state that if the petitioner succeeds in having the decree passed in the suit for specific performance modified or reversed in appeal, it is open for the revision petitioner to seek restitution.



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P.B.BALAJI,J

sr

9. With the above observation, the civil revision petition is dismissed. No costs.

06.07.2026

sr

Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order

To

The Subordinate Court, Thiruvarur

CRP No. 3493 of 2026