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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No.2889 of 2026
& CMP.No.11791 of 2026**

1.S.Krishnamoorthy
2.S.Chelladurai

..Petitioners

Vs

F.Nasurin (deceased)
S.Faruk (deceased)
1.C.Bose
2.Usha Bose
S.P.Subbiah (deceased)
3.M.Nethaji Subash Chandra Bose @ M.Bose
4.R.Kanthalakshmi
P.M.Ayyasamy (deceased)
5.L.Nagaiahswamy
6.P.R.Dharmalingam
7.A.Rajkumar
8.S.Sudha

..Respondents

*[Cause title accepted vide order dated
27.04.2026 in CMP.No.8334 of 2026 in
CRP.SR.No.44262 of 2026]*

Prayer: Civil Revision petition filed under Section 115 of CPC, to set aside the order of the learned Subordinate Judge, Alandur, dated 07.02.2026 passed in E.P.No.356 of 2021 in O.S.No.344 of 2002.



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For Petitioners:

Mr.J.Antony Jesus

For Respondents:

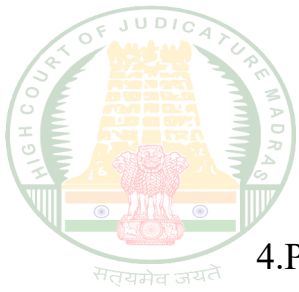
Mr.A.Sundara Vadhanan

ORDER

The revision petitioners are the legal heirs of the deceased 1st judgment debtor in the execution proceedings. An order passed in the execution petition, directing delivery of possession of items 3 and 4 is under challenge in the present revision petition.

2.I have heard Mr.J.Antony Jesus, learned counsel for the revision petitioners and Mr.A.Sundara Vadhanan, learned counsel for the contesting respondents.

3.The learned counsel for the revision petitioners would submit that without giving any opportunity to the petitioners, inviting my attention to the directions issued by this Court by order dated 27.02.2026 in CRP.No.5980 of 2025, where I had directed the Executing Court to decide the issue of nullity first. He would therefore state that the petitioners deserved a fair opportunity. He would also point out to the fact that on the very same date when E.A.No.2 of 2025 was allowed, permitting amendment, the Executing Court ought not to have directed delivery of items 3 and 4.



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4.Per contra, the learned counsel for the respondents would firstly contend that the issue of nullity had nothing to do with items 3 and 4. Inviting my attention to my order dated 27.02.2026, he would state that the issue of nullity was required to be gone into, only in respect of items 1 and 2 and not items 3 and 4. He would also bring to my notice that the said order passed by me in CRP.No.5980 of 2025 dated 27.02.2026 was taken up by way of Special Leave Petition to the Hon'ble Supreme Court and Special Leave Petition (Civil) Diary No.35963 of 2026 has been dismissed on 17.07.2026. He would therefore state that the issue cannot be re-agitated at this stage.

5.I have carefully considered the submissions advanced by the learned counsel on either side.

6.The arguments of Mr.J.Antony Jesus, is only that when I had directed the issue of nullity to be taken up first and decided before proceeding of the EP, the Executing Court ought not to have ordered delivery. Unfortunately, for two strong reasons, I am unable to accept the contention of Mr.J.Antony Jesus. Firstly, the issue of nullity was restricted to items 1 and 2, with a specific direction that insofar as items 3 and 4, the execution petition can be proceeded with. Secondly, the order in the revision was challenged before the Hon'ble Supreme Court and the challenge has been unsuccessful. Therefore, it is not



open to the petitioners to once again re-agitate the issues that have attained finality. The petitioners are bound to hand over possession of items 3 and 4 and since they have not come forward to deliver possession, the Executing Court has rightly ordered delivery. I do not find any illegality or perversity in the said order of the Executing Court, warranting interference in revision.

7. In fact, it is also brought to my notice by Mr.A.Sundara Vadhanan, that the petitioners have also filed independent suits to thwart the legitimate attempts of the respondents to take possession of items 3 and 4. He would also state that the applications for police aid and break open have also been filed. In fact, Mr.J.Antony Jesus would state that the said applications for police aid and break open have already been allowed as well. In the light of the above, I do not see any merit in the revision.

8. In fine, the Civil Revision Petition is dismissed. The Executing Court shall proceed to ensure that the delivery warrant in respect of items 3 and 4 is executed and possession of the said items are handed over to the respondents. If in the event of the police aid and break open applications not being ordered, the Executing Court shall allow the said applications to ensure that the jurisdictional police officials accompany the bailiff for the purposes of executing the warrant. It is made clear that execution of warrant will be restricted to items 3 and 4 alone and in respect of items 1 and 2, the directions in



my order dated 27.02.2026 shall hold good. No costs. Connected Civil

Miscellaneous Petition is closed.

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24.07.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ATA

To

The Subordinate Judge, Alandur.



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P.B.BALAJI, J.

ATA

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