



WEB COPY

CRP No. 3374 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

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

**CRP No. 3374 of 2026 and
CMP No.14570 of 2026**

T.Rose Pillai (Died),

1. 1.R.Rani, W/o Late Rose Pillai,
Res at No.70, Perumal Kovil Street,
S.R.Kandigai Village and Post,
Gummidipoondi Taluk.
2. R.Ramesh, S/o Late Rose Pillai,
Res at No.70, Perumal Kovil Street,
S.R.Kandigai Village and Post,
Gummidipoondi Taluk
3. Vijaya, D/o Late Rose Pillai,
Res at No.13/6, Suguna Vilas Illam,
Manimekalai Street,
Puzhithivakkam, Ullagaram, Madipakkam,
Kancheepuram District
Chennai 600 091
4. Lakshmi, D/o Late Rose Pillai,
Res at No.124, 2nd Street,
Near Balaji Temple,
Tomlur Layout, Bangaluru North,
Karnataka 560 071
5. Jagan, S/o Late Rose Pillai,
Res at No.17/9, Perumal Kovil Street,
West Mambalam, Chennai 600 033

..Petitioner(s)

Vs



1. Rajeswari, W/o Late V.Seenivasalu
Res at Jankirama Chetty Chatram,
H/o Chinna Obulapuram Village,
Periya Obulapuram Post,
Gummidipoondi Taluk.
2. Sakunthala, D/o Late V.Seenivasalu
Res at Jankirama Chetty Chatram,
H/o Chinna Obulapuram Village,
Periya Obulapuram Post,
Gummidipoondi Taluk
3. Venkatesan, S/o Late V.Seenivasalu
Res at Jankirama Chetty Chatram,
H/o Chinna Obulapuram Village,
Periya Obulapuram Post,
Gummidipoondi Taluk

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of CPC to set aside the Order dated 05.03.2026 passed by the District Munsif Cum Judicial Magistrate, Gummidipoondi, in EP.No.35 of 2019 in OS.No.48 of 1987.

For Petitioner(s): Mr. C.P.Sivamohan

For Respondent(s): Mr. .Ananha Rama Krishnan
For R1 To R3

ORDER

The decree holders, aggrieved by the dismissal of E.P.No.85 of 2019, have come up by way of this civil revision petition.

2. I heard Mr.C.P.Sivamohan, learned counsel for the petitioners and Mr.Anantha Rama Krishnan, learned counsel for the respondents.



3. The learned counsel for the petitioners would state that pursuant to the decree in O.S.No.48 of 1987, the plaintiffs filed E.P.No.35 of 2019, however the executing court dismissed the E.P. contending that the balance sale consideration has not been paid by the plaintiffs and hence, they are not entitled to execution of sale deed in their favour.

4. The learned counsel for the petitioners would state that the suit for specific performance was filed in respect of 4 Items of the suit property totalling to an extent of 2.45 acres, for a total sale consideration of Rs.31,605/-. The learned counsel for the petitioners contends that the suit was decreed only in respect of Item Nos.1 and 2 and in fact dismissed in respect of Item Nos. 3 and 4. The judgment and decree was challenged in A.S.No.304 of 1995 before this court and the said appeal came to be dismissed, by judgment and decree dated 09.01.2008. Therefore, it is the contention of the learned counsel for the petitioners that since admittedly the sale consideration ,that was fixed originally at Rs.31,605/- was in respect of all 4 Items, and the executing court ought to have seen that when the decree was restricted to two Items alone, namely Item Nos. 1 and 2, the sale consideration proportionately come down to Rs.13,545/- and further ought to have seen that the plaintiff had already paid a sum of Rs.29,658/-, over and above the sale consideration payable for Item Nos. 1& 2. The learned counsel for the petitioner therefore states that the execution petition will have to be restored to file and disposed of in accordance with law.



5. The learned counsel for the respondent would fairly concede to the submission of the learned counsel for the petitioner, however, he would contend that the petitioner is in possession of Item Nos. 3 and 4 also and atleast the petitioner should be called upon to put the respondent in possession of Item No.3 and 4, in respect of which the suit for specific performance has been dismissed, which also been confirmed up to this court in the first appeal.

6. I have considered the arguments advanced on either side. No doubt, in respect of all 4 Items, there was a deficit sale consideration that was payable by the plaintiff, now represented by his legal heirs. However, when the relief of specific performance was restricted to 2 Items alone, the executing court ought not have directed payment of balance sale consideration in the first place. The executing court should have proportionately worked out the sale consideration for Item Nos. 1 and 2 and having found that more than the amount was already been paid by the plaintiff, should not have directed any further payment by the plaintiff.

7. At this juncture, the learned counsel for the petitioners fairly concedes that though the petitioners are entitled to refund the excess amount of Rs.16,113/- the petitioners are not insisting on the same. He would also fairly concedes that the petitioners do not have any claim for Item Nos.3 and 4 and if the petitioners are in possession of the said items, they will hand over the same



to the respondent immediately.

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8. In the light of the above, I am inclined to set aside the impugned order passed by the learned District Munsif cum Judicial Magistrate, Gummidipoondi. Consequently, E.P.No.35 of 2019 is restored to file and the respondent shall be entitled to file counter to the E.P. and the execution petition shall be thereafter disposed of in accordance with law expeditiously, not later than 31.10.2026.

06-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

The District Munsif cum Judicial Magistrate,
Gummidipoondi.



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P.B.BALAJI, J.

MST

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