



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:14.08.2026

Pronounced on: 21.08.2026

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THE HON'BLE MR.JUSTICE P.B. BALAJI**CRP. No.3842 of 2026
and CMP. No.16790 of 2026**

Jagadeesan

..Petitioner

Vs

N.Subramani

..Respondent

PRAYER: This Civil Revision Petition has been filed under Section 115 of CPC, to set aside the fair and decretal order dated 29.04.2026 made in E.A. No.11 of 2017 in E.P. No.50 of 2003 in O.S. No.546 of 1994, on the file of the Principal District Munsif, Tiruvallur.

For Petitioner(s): Mr.P.Srinivasan

For Respondent(s): Mr.M.S.Subramanian

ORDER

The revision petitioner is the Judgment Debtor, who suffered an adverse order in E.A. No.11 of 2017, in E.P. No.50 of 2003 in O.S. No.546 of 1994.



2. I have heard Mr.P.Srinivasan, learned counsel for the petitioner and Mr.M.S.Subramanian, learned counsel for the respondent/deGREE holder.

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3. The respondent/deGREE holder filed an Application in E.A. No.11 of 2017, seeking amendment of the Execution Petition and to consequently, carry it forward to the plaint and the decree, dated 13.12.2002. The said Application came to allowed by the Execution Court, as against which, the present revision petition has been filed.

4. Mr.P.Srinivasan, learned counsel appearing for the petitioner would contend that the suit was laid for mandatory injunction and though the suit was decreed in favour of the respondent, the petitioner as judgment debtor, has been all along contending that the decree is inexecutable and unfortunately, the Executing Court has proceeded to permit amendment of the Execution Petition as well as the plaint and the decree consequently. It is his submission that one Theresa, was allotted only 4 cents in S.No.509/B/10B and she had sold an extent of 2.75 cents, in favour of the petitioner, in and by a document registered in the year 1976 and the remaining 1.25 cents alone was retained by the said Theresa. However, in and by document No.418/77, Theresa, sold 3.75 cents instead of 1.25 cents and in turn, the purchaser, Dhakshayini, sold the said extent of 3.75 cents to one Devi, in Document No.1958/85, from whom, the respondent/deGREE holder purchased the said 3.75 cents, under Document No.3159/1987.



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5. Mr.P.Srinivasan, learned counsel for the petitioner would revolve his submission on the following points:-

(i) Admittedly, the sale deed itself under which, the decree holder claims did not reflect the correct Survey Number 509/B/10B, but only refers to 509/10B;

(ii) Without a rectification deed being executed or a decree for a rectification, it is not open to the respondent/decreed holder to stake a claim over S.No.509/B/10B, even assuming, it is a correct Survey Number;

(iii) Excepting in the document in favour of the decree holder executed by Devi, no lenier measurements are mentioned in any of the preceding sale deeds;

(iv) Having owned only 4 cents and sold 2.75 cents to the judgment debtor/revision petitioner first in 1976, the vendor Theresa had retained only 1.25 cents alone and could not have conveyed more than 1.25 cents, muchless, 3.75 cents which has been alienated by her and ultimately, the same falling into the hands of the decree holder in 1987; and

(v) Referring to the relief sought for in the plaint, Mr.P.Srinivasan, learned counsel would contend that the first relief in the plaint pertains to 4 cents, whereas the decree holder purchased only 3.75 cents. He would therefore state that the Execution Court had committed a serious error in permitting



amendment, which again could not have been maintained before the Executing Court but only before the Trial Court, even assuming the respondent was entitled to seek amendment.

6. The learned counsel for the petitioner has also relied on the decision of the Hon'ble Supreme Court in *Venkatesha and another Vs. K.M.Venkata Muniyappa (Deceased) through LRs and others*, reported in 2026 INSC 705, where the Hon'ble Supreme Court held that in a suit for declaration of title premised on a rectification deed correcting survey numbers and in the absence of the pleadings and in the light of the admission of the plaintiff that two survey numbers were distinct properties, the Court cannot grant relief dehors the pleadings.

7. Per contra, the learned counsel appearing for the respondent/deeree holder Mr.M.S.Subramanian, would firstly countenance the arguments of Mr.P.Srinivasan, learned counsel for the petitioner that the original owner, Theresa owned only 4 cents. In this regard, he has taken me through the decision in *Jagadeesan vs. N.Subramani*, reported 2011 2 LW 2025. In fact, the parties to this revision were the parties in the said revision petition and CMSA as well. The issue with regard to the availability of only 4 cents or something more was deliberated upon in the said common order and this Court, while dismissing the appeal as well as the revision petition filed by the revision petitioner herein held that Theresa, had sold 2 and half cents out of 54 cents and



not 4 cents and conclusively, held that the revision petitioner's argument that the plaintiff cannot claim title in respect of 3.75 cents in the suit Survey Number cannot be accepted.

8. He would therefore contend that insofar as the extent, it is no longer open to the petitioner to contend that Theresa, was entitled to only 4 cents and therefore, she could not have conveyed 3.75 cents, which ultimately came into the hands of the revision petitioner. The learned counsel would also state that the suit was filed way back in the year 1994 and initially, it was decreed exparte on 13.12.2002 and the revision petitioner filed an application to set aside the exparte decree in I.A. No.1266 of 2003, which came to be dismissed on 03.09.2004. The said order was challenged unsuccessfully before this Court CRP. No.2074 of 2004 and with the dismissal of the revision on 01.10.2004, thereafter in the Execution Petition delivery was ordered and in E.A. No.605 of 2004, filed by the decree holder for removal of obstruction, the Executing Court passed an adverse order, dismissing the said application. The decree holder preferred an Appeal in A.S. No.24 of 2008, against the said dismissal of E.A. No.605 of 2004 and the said appeal came to be allowed on 24.10.2008. It is as against the judgment of the First Appellate Court that the revision petitioner filed CMSA No.8 of 2009, which was taken up along with CRP. No.1953 of 2009 and this Court, rejected all contentions of the revision petitioner. Not being satisfied with the judgment and order of this Court, in the CMSA and



CRP, the petitioner moved the Hon'ble Supreme Court in SLP (Civil) No.23326/2011. The said SLP (Civil) also came to be dismissed on 02.09.2011

and therefore, the matter has attained finality. It is therefore the submission of the Mr.M.S.Subramanian, learned counsel for the respondent that it is no longer open to the revision petitioner to re-agitate the very same issues that have already stood concluded and become final.

9. Mr.M.S.Subramanian, learned counsel for the respondent would further contend that even an attempt was made to challenge the judgment and decree in O.S. No.546 of 1994, by preferring an appeal along with delay and the delay petition in I.A. No.119 of 2004, was also dismissed on 18.10.2005. The revision petition filed as against the same, in CRP. No.1953 of 2009, also came to be dismissed along with CMSA by way of the reported judgement referred herein above. Special Leave Petition in SLP. No.23327 of 2011, challenging the order of dismissal of CRP. No.1953 of 2009, also came to be dismissed by the Hon'ble Supreme Court on 02.09.2011. At the final stage of execution after much water had flown alone, the respondent/decreed holder took out E.A. No.11 of 2017 for amending the Survey Number which was allowed by the Executing Court. In fact, this Court also dismissed CRP. No.3452 of 2017, challenging the order in E.A. No.11 of 2017, permitting amendment. However, the Hon'ble Supreme Court in SLP. (Civil) No.23519 of 2019, allowed the SLP on 12.12.2024, only on the ground that the Executing Court had not given a fair



opportunity to the revision petition and the matter was remitted to the Executing Court for fresh consideration. It is after the said order of remand that the Executing Court, once again, went into the merits and de-merits in E.A. No.11 of 2017 and ultimately, allowed the amendment application. The learned counsel would therefore state that there is absolutely no merit in the revision petition and since the property which is subject matter of the suit is not in dispute, the amendment to the Survey Number does not in any way caused any serious prejudice to the revision petitioner.

10. He would further contend that the Executing Court is also the Trial Court in the present case and therefore, the filing of the amendment petition in the Executing Court cannot be said to be fatal. Further, a consequential direction to amend the plaint as well as decree, have also been sought for and allowed. He would therefore state that there are absolutely no justifiable reasons to interfere with the well considered order, he prays for dismissal of the revision petition.

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

12. It is not in dispute that the revision petitioner was the first purchaser from Theresa, under registered sale deed dated 17.11.1976. The revision petitioner purchased 2.75 cents in S.No.509/10B. Subsequently, Theresa has sold to one Dhakshayini, 3.75 cents, again in S.No.509/10B. The said



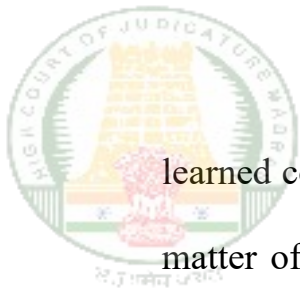
Dhakshayini, in and by sale deed dated 19.04.1985, has in turn, sold the very same 3.75 cents, however, specifically mentioning the Survey Number to be S.No.509/B/10B (which is the correct Survey Number) instead of S.No.509/10B. In turn, the purchaser from Dhakshayini, viz., Devi, in and by sale deed dated 30.07.1987, conveyed the very same 3.75 cents, in favour of the present respondent, who is the plaintiff/decreed holder. No doubt, in the sale deed executed in favour of the revision petition, the Survey Number was again improperly described as S.No.509/10B, instead of 509/B/10B. It is also an admitted fact that the plaintiff did not take any steps to get the sale deed rectified. However, the issue has been gone into, in depth before the Trial Court and the matter in fact, reached the corridors of this Court in 2009, when the revision petitioner filed CMSA. No.8 of 2009 and CRP. No.1953 of 2009. The very same contentions were raised by the revision petitioner stating that the vendor Theresa, had no right to convey 3.75 cents, after having sold 2.75 cents in favour of the revision petitioner and what remained with her was only 1.25 cents. However, the case of the revision petitioner was rejected and this Court held that the original extent that was available was not 4 cents, but 54 cents. The petitioner unsuccessfully challenged the common order/judgment by way of two Special Leave Petitions and the same were also dismissed and the said issue has attained finality. It is therefore no longer open to the petitioner to once again re-agitate the very same contentions that were raised unsuccessfully in the earlier round of litigation upto the Hon'ble Supreme Court. Therefore the



argument that the original owner Theresa, had only 4 cents out of which, she sold 2.75 cents to the petitioner and retained only 1.25 cents and could not have validly conveyed 3.75 cents is without any merit.

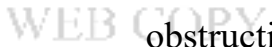
13. The next submission of Mr.P.Srinivasan, learned counsel for the petitioner that requires for consideration is as to whether without amendment or rectification of the sale deed, in favour of the respondent, whether the respondent can strightaway seek for amendment of the Execution Petition and consequently, the plaint and decree, that too, by making an application to the Executing Court. Insofar as the filing of the application in the Executing Court, no doubt, the proper course of action should have been to seek amendment of the plaint and thereafter, consequently, the decree and the Execution Petition. At the same time, I do not see any prejudice having been caused to the revision petitioner, since admittedly, the Trial Court is also dealing with the Execution Petition in the present case and there is a prayer for carrying out the amendment in the plaint as well as the decree in favour of the respondent. In such view of the matter, I do not see any merit in the arguments of Mr.P.Srinivasan, learned counsel for the petitioner in this regard.

14. Coming to whether the plaintiff can execute the decree even if the amendment is carried out as permitted by the Executing Court now, since the sale deed of the respondent still carries an incorrect Survey Number and same has not been rectified till date, as rightly, contended by Mr.M.S.Subramanian,



learned counsel for the respondent, the identity of the property, which is subject matter of the execution is not in dispute. In such circumstances, I do not see why the plaintiff/decreed holder should be non-suited for his sale deed carrying an incorrect Survey No.509/10B, instead of 509/B/10B.

15. I have also gone through the order of the Executing Court, which is impugned in the present revision petition and post remand by the Hon'ble Supreme Court. The learned Principal District Munsif, has conducted an enquiry and has dealt with all the objections of the revision petitioner judiciously and came to the conclusion that when the boundaries mentioned in the sale deed under which, the respondent/decreed holder claims, tallied and matched with the description of the suit property, then mere misdescription of Survey Number will not take away the right of the respondent/decreed holder. The Executing Court also discussed the trajectory of the case and the attempts of the revision petitioner to have the decree set aside once before the Trial Court itself and secondly, before the Appellate Court by way of an appeal with delay and consequently, held that S.No.509/B/10B was of an extent of 54 cents and not 4 cents. Such reasoning and conclusions are also based on materials available on record and rightly, the Executing Court also found that the Judgement Debtor has not questioned or denied the title to the decree holder at any stage of the proceedings and proceeded to allow the amendment as prayed for by the respondent/decreed holder. Technical objections should not be put in



All attempts were made to not only set aside the exparte decree, but also in obstructing the execution of the decree as well and he did not leave any stone unturned and went upto the Hon'ble Supreme Court, challenging every single adverse order. In such circumstances, I am of the considered view that the Executing Court has not committed any error in allowing the amendment application warranting interference in revision.

16. For all the above reasons, this Civil Revision Petition is **dismissed**. Consequently, connected Miscellaneous Petition is also dismissed. Considering that the parties have been litigating for the past two decades and more, the Executing Court shall dispose of the E.P. No.50 of 2003, on merits and in accordance with law, within a period of three (3) months from the date of receipt of copy of the order. No costs.

21-08-2026

Index: Yes/No
Speaking order/Non Speaking Order
Neutral Citation: Yes/No

RKP

To
The Principal District Munsif, Tiruvallur.



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CRP No.3842 of 2



P.B.BALAJI, J.

RKP

Pre-delivery Order in
CRP. No.3842 of 2026
and CMP. No.16790 of 2026

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