



THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 17.08.2026

Order pronounced on : 21.08.2026

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

CRP.Nos.1032 & 1457 of 2026
& CMP.Nos.5546 & 6998 of 2026

1.Dhanalakshmi
2.E.Krishnan

.. Petitioners in
both CRPs

Vs.

S.P.Veerappan

.. Respondent in
both CRPs

Common prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the III Additional District and Sessions Court, Tiruvallur at Poonamallee in E.A.Nos.5 & 10 of 2025 in E.P.No.3 of 2023 in O.S.No.165 of 2016.

For Petitioners : Mr.V.Jayakumar

For Respondent : Mr.D.Veerasekaran



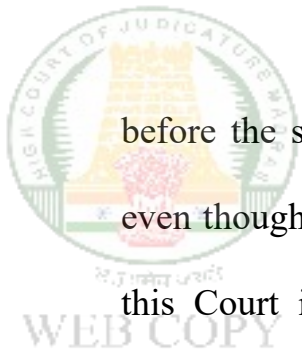
COMMON ORDER

These revision petitions have been filed to set aside the order passed by the III Additional District and Sessions Court, Tiruvallur at Poonamallee, in E.A.Nos.5 & 10 of 2025 in E.P.No.3 of 2023 in O.S.No.165 of 2016.

2.I have heard Mr.V.Jayakumar, learned counsel for the revision petitioners and Mr.D.Veerasekaran, learned counsel for the respondent.

3.The revision petitions are filed challenging the orders in execution applications, namely E.A.No.5 of 2025 and E.A.No.10 of 2025 in E.P.No.3 of 2023.

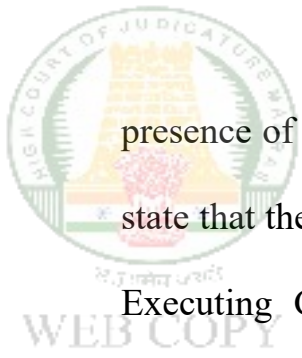
4.The learned counsel for the petitioners, Mr.V.Jayakumar, would firstly contend that the suit was filed by the respondent for specific performance of an agreement of sale. The suit was decreed. Pursuant to the same, E.P.No.50 of 2021 was filed for execution of the sale deed. However, in the said execution proceedings, according to the learned counsel for petitioners, notice was sent to an incorrect address and there was no service of notice in the execution proceedings. He would further state that being a suit for specific performance, the compliance of Order XXI Rule 34 of CPC is mandatory and admittedly, the petitioners have not been put on notice about the draft sale deed



before the same was approved by the Executing Court. He would therefore state that even though the sale deed has been executed in favour of the respondent/decree holder, this Court is entitled to set aside the same, since there has been gross procedural irregularity committed by the Executing Court.

5. That apart, the learned counsel for the petitioners would further state that after the execution of sale deed, the second execution petition in E.P.No.3 of 2023 was filed for recovery of possession and curiously, in the said execution petition, notice was sent to the correct address of the revision petitioners and though the Executing Court, on 03.12.2025, had ordered the execution petition and posted the matter to 30.01.2026, the Executing Court has taken up the matter even on 12.01.2026, without even any advance hearing application filed by the respondent and without even informing the petitioners. He would therefore state that the execution applications will have to be necessarily allowed, thereby giving a fair opportunity to the petitioners to contest the execution petition. He would also state that even in the sale deed that has been executed by the Court, there were some misrepresentations and in such circumstances, he would pray that the revision petitions are allowed.

6. Per contra, the learned counsel for the respondent would state that the execution petition was directed to be expedited by this Court in CRP.No.2303 of 2025 in the



presence of the counsel for the respondent by order dated 18.06.2025. He would state that the Section 47 application was thereafter taken up and rightly dismissed by the Executing Court. He would also bring to my notice that despite challenging the judgment and decree by way of first appeal, the revision petitioners are unable to even number the appeal, till date and admittedly, there is no interim stay impeding the Executing Court from proceeding with the execution petition.

7. That apart, even on equity, the learned counsel for the respondent contends that the respondent, in furtherance of the orders in the Executing Court, has spent valuable monies in procuring necessary stamp duty and also incurred registration expenses and merely because the petitioners come up with applications to set aside the sale, citing technical objections, the valuable rights that are accrued to the respondent/deeree holder should not be snatched away. He would therefore pray for dismissal of the revision petitions.

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

9. In fact, this Court, by order dated 18.03.2026, finding that petitioners' case revolves around service of notice on a wrong and incorrect address, called for the



original records pertaining to E.P.No.50 of 2021, which is the earlier EP for execution of sale deed in favour of the respondent. The records, in pursuance of the said order, have also been received and I have gone through the same.

10. Admittedly, the petitioners are residents of Plot No.2/271, Mogappair East, Pugazhendi Street, Chennai -37. However, notice has been sent to No.2/27, Mogappair East, Pugazhendi Street, Chennai -37 and since it has been marked 'unclaimed', the Executing Court has proceeded to deem it as proper service and proceeded to deal with the execution petition and ultimately, directed the sale deed to be executed. Though the Code under Order XXI Rule 34 of CPC contemplates a draft of the sale deed being served on the defendants/defendants' counsel and objections of the defendants to be heard and enquired into before passing further orders, the said procedure has also not been complied with admittedly, in the present case.

11. In view of the respondent being called and set ex-parte, the draft sale deed has been received and fair sale deed has also been executed by the Court. The Hon'ble Supreme Court in *Rajbir Vs. Suraj Bhan and another*, reported in 2022 SAR (Civ) 475, held that the provisions of Order XXI Rule 34 of CPC are salutary in nature and the objections to the execution petition is entirely different and cannot be confused with objections to the proposed sale deed. In fact, the Hon'ble Supreme Court proceeded to



hold that Order XXI Rule 34 of CPC cannot be diluted and despite noticing the fact that the sale deed had been executed in the case on hand, the Hon'ble Supreme Court interfered with the order of the Courts below, holding in favour of the decree holder.

12. In fact, since the learned counsel for the respondent has also pointed out to the expenses that the respondent/decreed holder has been first incurred, I am emboldened to extract paragraph no.16 of the Hon'ble Supreme Court in entirety.

“16. In such circumstances, we are inclined to pass the following order:

The appeal is allowed. We set aside the impugned order. We direct that the execution court Civil Judge (Senior Division), Jhajjar shall hand over the copy of the draft sale deed produced by the respondents within a period of two weeks from the date of production of copy of this judgment before the execution court. The appellant will be free to file his objections to the draft sale deed within a period of three weeks thereafter. Thereafter, after hearing the parties, a decision will be taken on the objections. Learned counsel for the appellant would point out that appellant will in case the sale deed is found to fall foul of the decree, bear the expenses which has been incurred by the respondents towards registration. If the sale deed is found to not be in conformity with the decree, fresh proceedings will be taken. Appropriate order will be passed by the court so that the decree is executed as is provided in the decree. Needless to say, in case the sale deed which has been executed on the strength of the draft sale deed is found to be violative of the decree, it will necessarily be set aside, and thereafter, a fresh sale deed must be executed by the execution court. The entire process shall be completed within four months from the date copy of the judgment is produced before the court.”



13. Yet another circumstance, that has been pointed out by the learned COMMISSIONER, the petitioners that despite the Executing Court passing an order on 03.12.2025 and posting the matter to 30.01.2026, it is not known how the Court took up the matter even on 12.01.2026, without any notice to the petitioners, or without even an application to advance hearing filed by the respondent. This again is a serious procedural irregularity which has prejudiced the interest of the petitioners. For all the above reasons, I am inclined to set aside the impugned orders and remit the matter to the Executing Court in line with the directions issued by the Hon'ble Supreme Court in *Rajbir's case*.

14. Insofar as CRP.No.1032 of 2026, this revision has been filed challenging the dismissal of the Section 47 application filed by the petitioners/defendants seeking to declare the decree in O.S.No.165 of 2016 dated 25.02.2021 as a nullity. The Executing Court has dismissed the Section 47 application primarily on the ground that the Executing Court cannot go behind the decree or question its validity. However, as already discussed, presently, this Court having found that there is a violation of the mandate of Order XXI Rule 34 of CPC and necessary enquiry contemplated thereunder has to be conducted, I do not see why the petitioners should be non suited on the ground that they have objected to the execution of the decree, by taking out an application in E.A.No.5 of 2025. For this limited purpose, I am issuing necessary directions to the Executing Court.



15. In fine, the Civil Revision Petitions are disposed of in the manner following:

(i) The respondent shall furnish a copy of the draft sale deed to the petitioners/petitioner's counsel, within a period of one week from the date of receipt of a copy of this order before the Executing Court;

(ii) The petitioners are at liberty to file their objections, if any, to the draft sale deed, within a period of two weeks thereafter;

(iii) The Executing Court shall conduct an enquiry and deal with the objections, if any, of the petitioners and pass further orders;

(iv) In the event of the sale deed being found to be in conformity with the decree, then there would be no necessity for any fresh sale deed to be executed in favour of the respondent.

(v) However, in the event of the Executing Court coming to the conclusion that the sale deed falls foul of the decree, then it goes without saying that the respondent will have to suffer the incidental costs and losses and subject to the further orders that may be passed by the Executing Court, will have to be necessarily burdened with additional expenses towards stamp duty and registration, for any fresh sale deed to be executed, if found entitled to.

(vi) The above enquiry shall be concluded and the EP be disposed of, within a period of three months from the date of receipt of a copy of this order; and



(vii) In view of the above directions, the warrant of delivery shall be kept in abeyance, till the Executing Court renders findings as contemplated hereinabove, subject to which, it shall be open to the decree holder, if successful, to thereafter proceed to execute the delivery warrant and with such liberty, CRP.No.1457 of 2026 is dismissed.

No costs. Connected Civil Miscellaneous Petitions are closed.

21.08.2026

Neutral Citation Case : Yes / No

Speaking / Non-speaking order

Index : Yes/No

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To

The III Additional District and Sessions Court, Tiruvallur at Poonamallee.



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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.Nos.1032 & 1457 of 2026
& CMP.Nos.5546 & 6998 of 2026

21.08.2026