



CRP.No.454 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**C.R.P.No.454 of 2023**  
**and CMP.No.3763 of 2023**

Kumari

.. Petitioner

Versus

Arunachalam

.. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 19.12.2022 made in EP.No.15 of 2019 in O.S.No.3 of 2001 on the file of District Munsif cum Judicial Magistrate, Vanur.

For Petitioner : Mr.T.Saikrishnan  
For Respondent : Mr.K.Chandrasekaran

**ORDER**

Challenging the order of the Executing Court allowing the execution petition for execution of sale deed pursuant to the judgment and decree in O.S.No.3 of 2001 filed for specific performance, the present revision has been filed.

2. The suit has been decreed on 02.01.2008 for specific performance



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with a direction that the remaining balance sale consideration of Rs.1000/- to be deposited within a period of two months. EP was filed to enforce the said judgment and decree. In the Execution Petition, a stand has been taken by the respondent/defendant as if the execution petition is filed belatedly and the amount ordered namely the remaining sale consideration has not been paid within the time as directed by this Court. The contention also raised to the effect that the decree holder had filed an application to deposit the balance sale consideration after a period of six years in I.A.No.170 of 2016 and the said application is already dismissed. However, the Trial Court taking note of the fact that the amount had already been deposited, allowed the application. Challenging the same, the present revision has been filed.

3. The main contention of the revision petitioner is that the Executing Court having dismissed the application for grant of extension to deposit the remaining sale consideration in I.A.No.170 of 2016, ought not to have allowed the execution petition on the ground that the amount has already been deposited. Hence, seeks for setting aside the impugned order and allowing this revision.



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4. This Court noting the discrepancies in the orders passed in interlocutory application, particularly, the order passed by the Executing Court in I.A.No.170 of 2011 in dismissing the application for extension of time and the impugned order, this Court called for the entire records. In fact, by order dated 10.06.2025, this Court passed the following order:

*" This civil revision is directed against the order dated 19.12.2022 passed by the learned District Munsif-cum-Judicial Magistrate, Vanur, Villupuram District directing the revision petitioner/judgement-debtor to execute the sale deed in favour of the respondent/decreed-holder pursuant to the decree and judgement dated 02.01.2008 made in O.S.No.03 of 2001 on the file of the learned District Munsif-cum-Judicial Magistrate, Vanur, Villupuram District.*

*2. This court, by order dated 24.02.2024, directed the learned District Munsif to offer her remarks regarding the alleged deposit of balance sale consideration of Rs.1,000/- and also directed the learned Principal District Judge, Villupuram, to conduct an enquiry regarding the finding of the learned District Munsif, Vanur, Villupuram District with regard to the lodgement schedule issued to the decree holder and deposit balance of sale consideration into the State Bank of India. This court, again on 15.11.2024 passed the following orders:-*

*"Mr.T.Sai Krishnan, learned counsel for the petitioner submits that this Court by order dated 24.02.2023 directed the learned District Munsif, Vanur to offer remarks regarding the alleged deposit of balance sale consideration and also directed the learned Principal District Judge, Villupuram to conduct enquiry regarding the finding of the learned District Munsif, Vanur.*

*2. Till date, neither any report nor any report regarding the alleged balance sale consideration being*



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*deposited despite dismissal of I.A.No.170 of 2016, has been received.*

*3. Registry is directed to follow up the same and get the report without any further delay.*

*4. Post the matter “for orders” on 29.11.2024. The interim stay already granted by this Court is extended 29.11.2024.”*

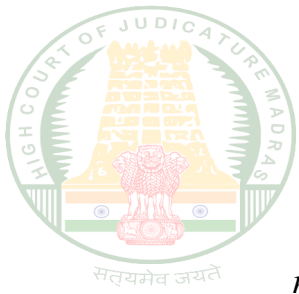
*3. Pursuant to the above said order, the District Munsif offered her remarks vide letter in D.No.4192 of 2024 dated 28.11.2024.*

*4. This court has carefully gone through the report submitted by the learned District Munsif.*

*5. Though the suit in O.S.No.03 of 2001 filed for specific performance of contract was decreed on 02.01.2008 with a direction to deposit the remaining balance sale consideration of Rs.1,000/- into the court within a month, it is seen from the records that the learned counsel who appeared for the decree-holder moved an application seeking extension of time to deposit the balance sale consideration of Rs.1,000/- in 2015 in I.A.No.170 of 2015. The said application was opposed by the judgement-debtor. The learned District Munsif, however, by order dated 26.03.2018, dismissed the application for extension of time to deposit the balance sale consideration. It is, however, seen that the said order has not been challenged by the decree-holder.*

*6. It is relevant to note here that the order refusing to grant extension of time to deposit the balance consideration was passed on 26.03.2018. Thereafter, on 11.04.2019, the decree-holder, moved an execution petition through another counsel stating that the balance sale consideration was deposited on 29.01.2008 itself and lodgement schedule was also issued by the court. That execution petition was numbered as E.P.No.15 of 2019.*

*7. The Executing Court by order dated 19.12.2022 allowed the execution petition in E.P.No.15 of 2019 and directed execution of sale deed in favour of the petitioner. The said execution petition was directed to be listed on 31.01.2023. It is this order now under challenge in the present*



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revision petition.

8. The learned Principal District Judge, Villupuram, pursuant to the order of this court dated 15.11.2024 submitted his report vide A.N.1217/2024 dated 26.12.2024.

9. The learned Principal District Judge, in his report stated as if the counsel who appeared for the decree-holder, originally filed a lodgement schedule on 25.01.2008 to deposit a sum of Rs.1,000/- towards balance sale consideration. The lodgement schedule was issued to the counsel under L.O.No.14/07-08, dated 29.01.2008 and the amount was also deposited at the State Bank of India Vanur on 29.01.2008. The learned counsel has also filed a memo on 30.01.2008 before the District Munsif cum Judicial Magistrate, Vanur along with bank challan for the lodgement of Rs.1,000/-. According to the learned Principal District Judge, on perusal of the available ledgers, he found that entry regarding brought forward of the amount is found to have been made in the Civil Register No.35 of the year 2023-24.

10. Normally, if a lodgement schedule is issued and the sum is deposited into the treasury or bank, it is reflected in the Civil Register No.35 immediately. There was no reason why the entry had not been reflected in the Civil Register for the specific year, and the alleged deposit of balance sale consideration was found to have been brought forward only in Civil Register No. 35 (Ledger) of the year 2023-24. This raises a serious doubt in the minds of this court. The Principal District Judge, Villupuram, is, thus, directed to conduct a thorough enquiry in this regard and submit his findings to this court by July 10, 2025, along with a photocopy of the Civil Register No.35/Ledger for the years 2008-2009 to 2023-24 showing the deposit.

11. The order of interim stay granted by this court on 24.02.2023 which has been subsequently extended from time to time, shall continue till 10.07.2025.

Post this matter on 10.07.2025.

5. In pursuant to the said order, detailed report with remarks is sent by the learned Principal District Judge, Villupuram along with the copy of



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concerned ledger. On perusal of the same, it would indicate that on the basis of memo filed by the learned counsel for the plaintiff on 25.01.2008 along with Rs.1,000/- for the issuance of a Lodgment Schedule, the Court issued a challan dated 29.01.2008 and the amount of Rs.1000/- was deposited into the Civil Court Deposit Account on 29.01.2008. The learned counsel for the plaintiff had filed the Lodgement Receipt along with a memo dated 30.01.2008 before the District Munsif-cum-Judicial Magistrate, Vanur and an entry was made in the Deposit Register in C.R.36 of 30.01.2008 in CCD.No.14/2007-2008 and the deposit of Rs.1000/- was brought forward in Civil Register No.35 on page No.23 of the ledger for the year 2008-2009. The same has been consistently carried forward in Civil Register No.35 in all subsequent years up to 2023-2024. It is ascertained that the deposit of Rs.1000/- in O.S.No.3 of 2001 has been duly brought forward in the Civil Register No.34 for each of the said years. The photocopy of Civil Register No.35/Ledger for the years 2024-2025 and 2025-2026, lodgment memos dated 25.01.2008 and 30.01.2008 filed by the plaintiff have been produced along with the report.

6. On perusal of the report and the photocopies, this Court finds that on 29.01.2008 challan was issued by the Court for lodgment and the

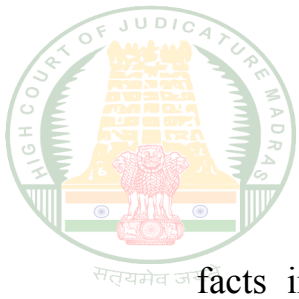


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amount of Rs.1000/- was deposited in the Civil Court Deposit Account/SBI, Vanur on 29.01.2008. This entry has been carried out in the Deposit Register in CR.36 on 30.01.2008 in CCD.No.14/2007-2008 and the deposit was brought forward in CR.35 on page No.23 of the ledger for the year 2008-2009, then the same was brought forwarded in CR.No.35 in all subsequent years. Therefore, these facts would clearly indicate that as directed in the judgment and decree the balance sale consideration has been deposited within the time as early as on 29.01.2008, however, the fact remains that ignorant of the fact that the amount has already been deposited, the counsel appearing for the decree holder/plaintiff had once again filed an application seeking extension of time in I.A.No.170 of 2016. Only in that scenario, the executing court has dismissed the application as time barred, whereas, now the factual aspect as referred above clearly indicate that amount is already deposited as per the judgment and decree. Therefore, merely, because the wrong application filed by the counsel seeking extension of time ignorant of the actual facts, whereas, that application has been dismissed as time barred, it cannot be said that order will operate as res judicata.

7. This Court is of the view any order passed not based on the actual



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facts in controversy, such order cannot operate as res judicata. In this regard, the Hon'ble Supreme Court of India in the case of *Canara Bank vs. N.G.Subbaraya Shetty* reported in (2018) 16 SCC 228 has held that erroneous decisions on questions of law will not operate as res judicata. Therefore, the Executing Court recording the true facts as per the documents available in the record and passing the order does not suffer from infirmity.

8. At this stage, it is submitted by the learned counsel that the judgment debtor/respondent has made improvements in the suit properties and he is entitled to the improvement, this Court is of the view that aspect cannot be gone into at this stage, the revision petitioner has to work out as per law.

9. Such view of the matter, I do not find any merits in the revision and accordingly, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

10.07.2025

Index : Yes/No  
Internet : Yes/No  
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To,

1. The District Munsif cum Judicial Magistrate  
Vanur

2.The Section Officer  
VR Section, Madras High Court

**N.SATHISH KUMAR, J.,**

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