



WEB COPY



C.R.P.No.1829 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2025

CORAM

**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**C.R.P.No.1829 of 2023  
and CMP.No.11759 of 2023**

1.Arayer  
2.Mani

...Petitioners

Vs.

1.Madhammal  
2.Edumban

...Respondents

**Prayer** :- Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 09.11.2022 made in E.A.No.1 of 2021 in E.P.No.9 of 2019 in O.S.No.27 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Edappadi by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Manoharan

For Respondents : Mr.P.Jagadeesan  
for R1  
No appearance  
for R2



C.R.P.No.1829 of 2023

WEB COPY

## ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. Challenging the dismissal of E.A.No.1 of 2021 filed by the revision petitioners, the present revision petition has been filed. Admittedly, the revision petitioners were not parties to the suit in O.S.No.27 of 2014 on the file of the District Munsif Court, Sankari. The said suit was filed by the first respondent / decree holder seeking specific performance of an agreement of sale entered into with the second respondent / judgment debtor. The suit was decreed in favour of the first respondent herein. Execution proceedings were thereafter initiated in E.P.No.9 of 2019 to enforce the decree for specific performance.

3. While the execution petition was pending, the revision petitioners filed E.A.No.1 of 2021 under Section 47 of the Code of Civil Procedure, claiming entitlement to a 2/3rd share in the suit property. The application was contested by the first respondent / decree holder and came to be dismissed by the Executing Court.



C.R.P.No.1829 of 2023

WEB COPY

4. The learned counsel for the petitioners submits that the petitioners have a legitimate share in the suit property, and the agreement between the judgment debtor and decree holder was executed behind their back. He contends that the decree is a collusive one and that the Executing Court failed to assign proper reasons while dismissing their Section 47 application. It is further submitted that the petitioners should not be driven to a fresh round of litigation and that their claims ought to have been adjudicated within the execution proceedings itself.

5. Per contra, the learned counsel for the first respondent submits that the revision petitioners were not parties to the suit and, therefore, are not judgment debtors. The suit was filed by a prospective purchaser to enforce an agreement of sale with the second respondent / judgment debtor, and the petitioners have no right of audience in such proceedings. He also brings to the notice of this Court that the revision petitioners had filed a suit for partition in O.S.No.9 of 2014, which was dismissed for non-prosecution, and no steps have been taken to restore the same. Furthermore, he points out that the decree holder had also entered into a separate agreement of sale with



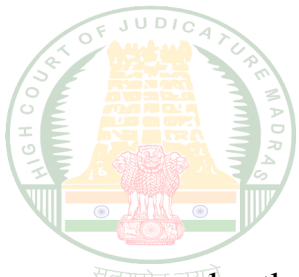
C.R.P.No.1829 of 2023

WEB COPY

another brother of the revision petitioners, and that suit was decreed, resulting in execution of a sale deed. The petitioners did not raise any similar objections in those proceedings. He contends that there is no legal infirmity in the order of the Executing Court warranting interference.

6. These petitions have been filed by the revision petitioners in E.A.No.1 of 2021 under Section 47 of the CPC. Section 47 of CPC enables only the judgment debtor to question the execution or validity of the decree, on certain available grounds. A third party to the suit is not entitled to invoke the provision of Section 47 of CPC. Further, on perusal of the order passed by the Executing Court, I find that the Executing Court has rightly held that the remedy of the revision petitioners is not before the Executing Court, but elsewhere and the Court also noticed that the petitioners have not filed any application to set aside the dismissal of the suit for partition in O.S.No.9 of 2014.

7. In view of the above, I find no infirmity in the findings or the order of the Executing Court. However, considering the submission made



C.R.P.No.1829 of 2023

WEB COPY

by the learned counsel for the petitioners, liberty is granted to the revision petitioners to work out their remedies in accordance with law.

8. Accordingly, the revision petition is dismissed, and the order passed in E.A.No.1 of 2021 is confirmed. However, liberty is granted to the revision petitioners to file an appropriate application, as permissible in law, to agitate their rights before the competent forum. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

**02.09.2025**

Index : No  
Internet : Yes  
jas

**To**

The District Munsif cum Judicial Magistrate, Edappadi.



WEB COPY



C.R.P.No.1829 of 2023

**P.B.BALAJI.J.**

jas

**C.R.P.No.1829 of 2023  
and CMP.No.11759 of 2023**

**02.09.2025**