



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:18.11.2025

Pronounced on:28.11.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI**CRP. No.4204 of 2025
and CMP. No.21590 of 2025**

G.M.Kumaravel

Petitioner(s)

Vs

N.P.Sekar

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 16.07.2025 passed in E.A. No.3 of 2024 in E.P. No.282 of 2006 in O.S. No.679 of 1996 on the file of the I Additional Subordinate Judge, Erode.

For Petitioner : Mrs.G.Sumithra for
Mr.C.Prakasam

For Respondent : Mr.S.Kaithamalai Kumaran

ORDER

The revision petitioner is the judgment debtor in EP. No.282 of 2006.

The petitioner has filed an Application under Order XXI Rule 101 of the



Code of Civil Procedure (in short 'CPC') objecting to the decree passed in O.S. No.679 of 1996, claiming that the decree is a nullity. The said Application came to be dismissed by the Executing Court and challenging the same, the present revision petition has been filed.

2. I have heard Mrs.G.Sumithra, learned counsel for Mr.C.Prakasam, learned counsel for the revision petitioner and Mr.Kaithamalai Kumaran, learned counsel for the respondent/decreed holder.

3. The learned counsel for the petitioner would submit that the two suits for specific performance were filed as against the revision petitioner in the year 1999 and based on an agreement dated 02.06.1992. One of the suits came to be dismissed by the Trial Court after contest, finding that the plaintiff/respondent herein was not ready and willing and was not entitled to the equitable relief of specific performance. She would further contend that the respondent has accepted the said verdict in the other suit and has not even challenged the same before the First Appellate Court. However, insofar as judgment in O.S. No.679 of 1996 which is the subject matter of the present revision petition, the learned counsel would submit that the plaintiff has obtained an ex parte decree and the Trial Court has not even followed the mandate of Order XX Rule 4 CPC.



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4. Taking me through the judgment passed by the Trial Court, the learned counsel for the petitioner would contend that the judgment is a non speaking judgment and moreso, when the suit is for specific performance, the Trial Court is bound to give findings regarding readiness and willingness of the plaintiff, entitling him to decree for specific performance. It is also the contention of the learned counsel for the petitioner that though execution petition was filed and sale deed was executed in favour of the respondent/decree holder, it has been contended by the revision petitioner that the property being an ancestral property, the petitioner had no right to even execute the agreement of sale in the first place and falling back on the original plea taken in defence, the learned counsel submit that there was no intention to convey the property but the agreement was only executed as security for repayment of a loan availed of by the petitioner from the defendant.

5. The learned counsel would further state that the respondent/decree holder did not even pay the admitted balance sale consideration till the disposal of the suit. It is also the contention of the learned counsel that the Executing Court has rendered a finding that the application under Order XXI, Rule 101 CPC is not maintainable and no evidence has been adduced



in support of the challenge under the said Rule. She would however state that mere quoting of wrong provision of law cannot be put against the revision petitioner and the Executing Court ought to have decided the Application, notwithstanding the mis-quoting of provision of law. The learned counsel would therefore pray for the revision being allowed, setting aside the order passed by the Executing Court.

6. Per contra, Mr.S.Kaithamalai Kumaran, learned counsel for the respondent/decreed holder would submit that the suit for specific performance was decreed on 30.03.1999 and after entering appearance in the Execution Petition which was filed to get a sale deed in favour of the decree holder, the revision petitioner filed I.A. No.644 of 2000 under Order IX, Rule 13 CPC, to set aside the exparte decree. However, the said application came to be dismissed on 30.08.2000. He would further submit that in the meantime, the sale deed has been executed and registered in favour of the respondents on 27.06.2002. It is also the submission of the learned counsel for the respondent that the children of the judgment debtor filed an application in E.A. No.331 of 2008 invoking Section 47 of the CPC; the said application was dismissed after contest on 03.07.2012 and the same was challenged in appeal A.S. No.88 of 2012 which was dismissed for non prosecution on 09.07.2013. He would also invite my attention to the order



passed by this Court in CRP. No.1260 of 2014, in and where, by order dated 04.07.2019, the revision was disposed with a direction to the Executing Court to decide E.A. No.331 of 2008, the said E.A. was dismissed once again on 07.03.2020 and challenging the same CRP. No.1381 of 2020 was filed before this Court and the same was also dismissed on 22.12.2023.

7. The learned counsel would further state that even the prayer that has been sought for in the petition under Order XXI, Rule 101 CPC is vague and the petitioner does not even set out on what ground the decree is alleged to be nullity. The learned counsel would also bring to my notice that though the petitioner has enclosed as many as 14 documents along with the application under Order XXI, Rule 101 CPC, the petitioner has not chosen to enter the witness box and exhibit any of these documents. The learned counsel would therefore pray that there is absolutely no infirmity in the order passed by the Executing Court warranting interference in revision.

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

9. The petition admittedly filed by the revision petitioner before Executing Court is invoking Order XXI Rule 101 CPC, which reads as



follows:

“101. Question to be determined.—All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.”

10. From the reading of the above provision, it is clear that the said Rule does not confer any right by itself to a judgment debtor to question the validity of the decree. Rule only postulates that all questions relating to right, title or interest of the property arising between the parties, in an application under Rule 97 or Rule 99 shall be determined by the same Court dealing with the application, not by a separate suit. Admittedly, there is no application filed under Rules 97 or 99 of Order XXI CPC, in the present case. As rightly contended by Mr.Kaithamalai Kumaran, the learned counsel for the respondent, the petition is also vague and it does not disclose on what grounds the execution of the decree is sought to be objected/obstructed. Therefore, even assuming that the petitioner has invoked a wrong provision of law, even otherwise, there is absolutely no material to treat the application as one under Order XXI, Rule 97 CPC. The question of invoking Rule 99 does not arise, since the petitioner has not yet



been dispossessed from the property and the Execution Petition has been filed only for recovery of possession.

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11. Independently, I have also gone through the order of the Executing Court, the Executing Court has rightly discussed all relevant facts and circumstances, leading to the filing of E.A. No.3 of 2024 and the Executing Court has not dismissed the Application only on the ground of quoting of wrong provision of law, the Executing Court has also gone into the merits of contentions raised by the revision petitioner and clearly found that the petitioner cannot be permitted to re-agitate issues that have already attained finality.

12. I do not see any infirmity in the order of the Executing Court warranting interference of revision. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

28.11.2025

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Index : Yes / No

Internet : Yes / No

To:

The I Additional Subordinate Judge, Erode.



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CRP.No.4204 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. No.4204 of 2025
and CMP. No.21590 of 2025

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