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HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on : 24/09/2026
Order Delivered on: 06/10//2026

WP227 No. 402 of 2025

1 - Smt. Kirti Rajani Wd/o Late Santosh Kumar Rajani Aged About 50 Years R/o Beside Sachdev Furniture, Sindhi Colony, Station Road, Durg, Tahsil And District Durg (C.G.)

2 - Vanshika Rajani D/o Late Santosh Kumar Rajani Aged About 22 Years R/o Beside Sachdev Furniture, Sindhi Colony, Station Road, Durg, Tahsil And District Durg (C.G.)

3 - Abhiraj S/o Late Santosh Kumar Rajani Aged About 20 Years R/o Beside Sachdev Furniture, Sindhi Colony, Station Road, Durg, Tahsil And District Durg (C.G.)

... Petitioner(s)

versus

1 - Jagdish Kumar @ Chhanumal S/o Late Baniyal Meghnani Aged About 57 Years R/o Dixit Colony, Sindhi Colony, Durg, Tahsil And District Durg (C.G.)

2 - Deepa Meghnani W/o Shri Jagdish Kumar Meghnani Aged About 53 Years R/o Dixit Colony, Sindhi Colony, Durg, Tahsil And District Durg (C.G.)

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s)	:	Mr. B.P. Sharma, Advocate along with Ms. Kaushaki Kumari and Ms. Kokila Beriya, Advocate.
For Respondent(s)	:	Mr. Akash Kumar Kundu, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

CAV Order

1. The present petition has been filed by the petitioners against the impugned order dated 24.08.2024 passed by the learned 3rd Additional

District Judge, Durg, in Execution Case No. 28 of 2022, whereby the application filed by the petitioners under Section 47 of the Code of Civil Procedure, 1908 (in short, “CPC”) has been rejected.

2. The brief facts of the case are that the Respondents have prosecuted a Civil Suit against one Santosh Kumar Rajani (husband of petitioner No. 1 and father of petitioners No. 2 to 4), for declaration of title and permanent injunction, before the learned 9th Civil Judge Class-I, Durg, bearing Civil Suit No. 29-A/2018. In the Civil Suit, it was the pleading of the plaintiffs that, with respect to the subject property, i.e. a double-storied house situated at Dixit Colony (Sindhi Colony), Ward No. 24, Khasra No. 1364, area 1287 Sq. Ft. (22 x 58 ½ ft., out of a total of 1755 Sq. Ft., an agreement to sell was executed by defendant Santosh Kumar Rajani in favour of the plaintiffs, for a total consideration of Rs. 11,51,000/-, on 07.12.2004, and an agreement was executed between them. An amount of Rs. 2,00,000/- was paid to him through two cheques for Rs. One Lakh each. The time to execute the sale deed was fixed as 01.08.2005. The plaintiffs further paid another advance amount of Rs. 1,00,000/- to him through two cheques of Rs. 50,000/- each, on 29.03.2005. After the repeated efforts made by the plaintiffs, the defendant executed the sale deed only with respect to the house which was constructed on 1287 Sq. Ft. of land, and no sale deed was executed with respect to the remaining 463 Sq. Ft. of land, which is open land, though the plaintiff came into possession of the same. Since the defendant tried to dispossess the plaintiff from the subject part of the property, i.e. 463 Sq. Ft. of land and created a nuisance, the plaintiff filed the suit.

3. The suit filed by the plaintiffs for declaration and permanent injunction was dismissed by the learned trial Court, vide its judgment and decree dated 06.03.2012. The said judgment and decree was challenged by the plaintiffs before the learned appellate Court, which was allowed on 27.06.2014 and the plaint was returned under Order 7 Rule 10 of the CPC with liberty to file the suit before the competent Court. Thereafter, the plaintiffs filed the suit on 07.07.2014 for specific performance of contract, showing that the cause of action arose on 20.03.2013. The suit for specific performance of contract was decreed ex parte in favour of the plaintiffs vide judgment and decree dated 13.02.2017. Thereafter, the plaintiffs/decree holders initiated an execution proceeding before the learned executing Court.

4. In the execution proceedings, the petitioners filed an application under Section 47 of the CPC for quashing of the execution proceedings on the ground that the decree itself is null and void ab initio, as the suit for specific performance of contract was filed by showing a new cause of action and it was beyond the limitation period as provided under Article 54 of the Limitation Act. The application filed by the petitioner before the learned executing Court, under Section 47 of the CPC, has been rejected vide impugned order dated 24.08.2024, which is under challenge in the present writ petition.

5. Learned counsel for the petitioner would submit that the judgment and decree dated 13.02.2017 itself is null and void as it was filed beyond the limitation period and the suit suffered from delay. Since the defendant Santosh Kumar Rajani was proceeded ex parte, the objection could not be raised before the learned trial Court. He would further submit that initially, the plaintiffs had filed the suit for declaration

and permanent injunction, which was dismissed and by the appellate Court, the plaint was returned for filing it before the competent Court; therefore, the plaintiff was required to file the same plaint as it is before the competent Court, but in the present case, the plaintiff, instead of filing the same plaint, changed the pleadings and relief entirely and, with the new pleadings, a new suit has been filed for specific performance of contract, which is against the provisions of Order 7 Rule 10 of CPC. Earlier, when the plaintiff filed the suit for declaration and permanent injunction, he omitted to sue for specific performance of contract and relinquished his right to sue for the same. Therefore, at the subsequent stage, he cannot claim specific performance of the contract, and his suit was barred under Order 2 Rule 2 of the CPC. He would rely upon the judgment of the Hon'ble Supreme Court reported in 2013 (1) SCC 625 (**Virgo Industries (P) Ltd. v. Venturetech Solutions (P) Ltd.**). It is further submitted that the executing Court is empowered to determine all questions relating to execution, discharge or satisfaction of the decree as provided under Section 47 of the CPC, and the learned executing Court can examine the validity and executability of the decree, but in the present case, it failed to exercise its jurisdiction. The petitioners are legal representatives of the deceased defendant, and they would become shelterless if the decree is executed. On these premises, learned Counsel for the petitioners prayed for setting aside the impugned order dated 24.08.2024 and for quashing of the entire execution proceedings against the petitioners. He would also rely upon the judgment of "**St. George Shipping Co. Ltd. v. m. v. "IRENE P" a foreign flag vessel and Others"** 1999 (3) Mh.L.J. 109.

6. On the other hand, learned counsel appearing for the respondent/decree holder opposes the submissions and would submit that the plaintiff is in possession of the suit property and when they were tried to dispossess by the defendant, they earlier filed the suit for declaration and permanent injunction before the learned trial Court. The earlier suit was dismissed by the learned trial Court, whereas in the appeal filed by the plaintiff, the learned appellate Court allowed the appeal and returned the plaint under Order 7 Rule 10 of CPC for filing the suit for specific performance of contract before the competent Court, vide its order dated 20.03.2013. The order dated 20.03.2013 was not challenged by the defendant before any higher forum and the same attained finality. It was not a simple return of the plaint but included a direction to file the suit for specific performance of contract before the competent Court. Therefore, the plaintiff had filed the suit for specific performance of contract on 07.07.2014 before the jurisdictional Court. The defendant, Santosh Kumar Rajani, was alive at that time and he was served with the summons; he filed his written statement and the issue of limitation was also framed by the learned trial Court. At the stage of plaintiff's evidence, the defendant remained ex parte. The issue of limitation of filing the suit has already been considered by the learned trial Court, and the suit of the plaintiff was found to be within limitation. The ex parte decree has been passed in favour of the plaintiff. Even thereafter, the defendant has not challenged the ex parte decree by filing any application under Order 9 Rule 13 of CPC for setting aside the ex parte decree or by filing any appeal against the same. The decree was passed on 13.02.2017, and the original defendant, Santosh Kumar Rajani, died in the month of July 2019. Till

his death, he had not challenged the proceedings. In the execution proceedings, the petitioners have filed an application under Section 47 of the CPC challenging the validity and executability of the decree, which is beyond the scope of Section 47 of the CPC. The learned executing Court cannot go beyond the terms of the decree. The decree dated 13.02.2017 also attained finality for want of any challenge. He would further submit that similar applications were filed by the petitioners before the learned executing Court, which were rejected; yet another application has been filed only to cause delay and to frustrate the execution of the decree. The order passed by the learned trial court rejecting the application of the petitioners is justified, and the writ petition is liable to be dismissed. He would rely upon the judgment of "**Brakewel Automotive Components (India) Pvt. Ltd. v. P. R. Selvam Alagappan**" 2017 (5) SCC 371, "**Maurice W. INNIS v. Lily Kazrooni @ Lily Arif Sheikh**" 2026 LiveLaw (SC) 395, and "**Vasudev Dhanjibhai Modi v. Rajbhai Abdul Rehman and Others**" 1970 (1) SCC 670.

7. I have heard learned Counsel for the respective parties and perused the documents annexed with the petition and considered their rival submissions.

8. The controversy of the present case revolved around the provisions of Order 7 Rule 10 of CPC, which is necessary to note here:-

> **10. Return of plaint -** (1) [Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.
> *Explanation*— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule].

(2) **Procedure on returning plaint—** On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.

9. In the present case, the petitioner has not placed on record the order dated 27.06.2014, by which the plaint was returned for presentation at the competent Court. The said order was necessary to demonstrate that the appellate Court has ordered for presentation of the same plaint before the competent Court, because it is the case of the plaintiff that the order was for presentation of the plaint before the competent Court with the prayer of specific performance of contract. It has been considered in para 12 of the judgment of the learned trial Court dated 13.02.2017, which is as under:-

> “12. यह स्वीकृत तथ्य है कि दिनांक 07/12/2004 को इकरारनामा हुआ था। 1755 वर्गफीट भूमि के सबंध में प्र.पी.-02 का इकरारनामा हुआ था। यह भी स्वीकृत तथ्य है कि प्र.पी.-03 के पंजीकृत विक्रय पत्र के अनुसार मात्र 1287 दर्गफीट भूगि ही विकय की गयी है। इकरारनामा प्र.पी.-02 के अनुसार कुल 1755 वर्गफीट भूगि के एवज में सपूर्ण प्रतिफल की राशि 11,51,000/- रूपये (ग्यारह लाख इकावन हजार रूपये) प्रदान किया जा चुका है। बादी का यह मौखिक साक्ष्य कि शेष बादभूमि 468 वर्गफीट खुली जगह का प्रतिवादी भौतिक कब्जा देकर बाद में रजिस्ट्री कराने का वचन दिया था, अखण्डित रहा है। पंजीकृत विक्रय पत्र के निष्पादन के पश्चात् वादभूमि खुली जगह पर दिनाक 06/12/2006 को प्रतिवादी द्वारा बादभूमि पर सिवरेज पाईप को तोडे जाने, प्लॉट में गड्ढा खोदकर कब्जा करने के प्रयास के आधार पर बादीगण के द्वारा दिनाक 19/09/2006 को उपरोक्त कृत्य रोके जाने हेतु नोटिस प्रदान किया गया और दिनांक 19/09/2006 के बादकारण के आधार पर बादीगण के द्वारा वादभूगि पर प्रतिवादी द्वारा बिजली की बोरी कर पानी निकालकर एवं सिवरेज पाईप तोडकर नल कनेक्शन काटकर पानी सप्लाई बंद किया गया। उक्त कार्य को अवैध घोषित कराने के लिये और वादभूमि पर प्रतवादी के विरूद्ध स्थायी निषेधाज्ञा की सहायता हेतु और वादभूगि का अपने पक्ष में पंजीयन कराने के लिये दावा प्रस्तुत किया गया था, जो गुणदोषों के आधार पर नवम् व्यवहार न्यायाधीश, वर्ग-2, दुर्ग के द्वारा खारिज किया गया। जिसके विरुद्ध अपील की गयी थी और अपीलीय न्यायालय ने दावा को विक्रय के संविदा के विनिर्दिष्ट पालन के तहत् होने से न्यायालय फीस अधिनियम के अंतर्गत पर्याप्त न्यायशुल्क बस्पा करते हुए बादी के वाद को आदेश-07, नियम-10 व्य.प्र.सं. के अंतर्गत सक्षम न्यायालय में प्रस्तुत करने हेतु वापस लौटाये जाने का आदेश पारित किया और अधीनस्थ न्यायालय के डिकी को विधि सम्मत् नहीं होने के आधार पर अपास्त किया गया। तत्पश्चात् यह दावा वाद मूल्यांकन कर एवं निर्धारित न्यायशुल्क चस्पा कर प्रस्तुत किया गया है।"

10. The main question which arises for consideration is whether, in the facts and circumstances of the present case, the petitioners, who are the legal representatives of the original judgment-debtor, can assail the validity and executability of the decree dated 13.02.2017 in execution proceedings by filing their application under Section 47 of the CPC on the ground that the suit for specific performance of contract was barred by limitation and was also hit by the provisions of Order 2 Rule 2 of the CPC.

11. Section 47 of the CPC requires the executing Court to determine all questions arising between the parties to the suit, or their representatives, and relating to the execution, discharge or satisfaction of the decree. However, the jurisdiction of the executing Court under Section 47 of the CPC is circumscribed. Section 47 of the CPC reads as under:-

> "**47. Questions to be determined by the Court executing decree.-** (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.
> [1][***]
> (3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.
> [*Explanation I.* For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed are parties to the suit.
> *Explanation II.* (a) For the purposes of this section, a purchaser of property at a sale in execution of a decree shall be deemed to be a party to the suit in which the decree is passed; and
> (b) All questions relating to the delivery of possession of such property to such purchaser or his representative shall be deemed to be questions relating to the execution, discharge

1 Sub-section (2) omitted by Act 104 of 1976, sec. 20(i) (w.e.f. 1-2-1977).

> or satisfaction of the decree within the meaning of this section.]"

12. It is well settled that an executing Court cannot go behind the decree or sit in appeal over the decree sought to be executed. An objection as to the executability of a decree can certainly be entertained where the decree is a nullity, or where the Court which passed the decree lacked inherent jurisdiction to pass it. At the same time, an erroneous decree, whether erroneous on facts or in law, cannot be equated with a decree which is a nullity. The distinction between a decree which is void and a decree which is merely erroneous is therefore decisive in the present matter. A decree passed by a Court having jurisdiction does not become a nullity merely because the Court may have committed an error in appreciating limitation, pleadings or a provision of procedural law. In **Vasudev Dhanjibhai Modi** (supra), the Hon'ble Supreme Court has held that:-

> "6. A court executing a decree cannot go behind the decree: between the parties or their representatives it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties."

13. The aforesaid principle has been reiterated by the Hon'ble Supreme Court in **M/s. Brakewel Automotive Components (India) Pvt. Ltd.** (supra**)**, wherein it has been held that the executing Court can entertain an objection to the executability of a decree if the decree is void ab initio or a nullity, but an erroneous decree cannot be equated with a nullity. The executing Court neither can travel behind the decree nor can it assume the jurisdiction of an appellate Court over the decree. It has been held that:-

> "**20**. It is no longer res integra that an executing court can neither travel behind the decree nor sit in appeal over the same or pass any order jeopardising the rights of the parties thereunder. It is only in the limited cases where the decree is by a court lacking inherent jurisdiction or is a nullity that the same is rendered non est and is thus unexecutable. An erroneous decree cannot be equalled with one which is a nullity. There are no intervening developments as well to render the decree unexecutable.
>
> **21**. As it is, Section 47 of the Code mandates determination by an executing court, questions arising between the parties or their representatives relating to the execution, discharge or satisfaction of the decree and does not contemplate any adjudication beyond the same. A decree of court of law being sacrosanct in nature, the execution thereof ought not to be thwarted on mere asking and on untenable and purported grounds having no bearing on the validity or the executability thereof."

14. The same principle has been reaffirmed even in the recent decision of the Supreme Court in **Maurice W. Innis** (supra) wherein the Court reiterated that the executing Court is required to execute the decree as it stands and cannot vary or modify its terms; the limited exception remains where the decree is a nullity. It has been held that:-

> **"23.** In order to address the controversy arising in this appeal, it would be profitable to first place Section 47 of Code of Civil Procedure which provides for the questions to be determined by the Executing Court. The aforesaid Section 47 CPC is reproduced hereinbelow:-
>
> "47. Questions to be determined by the Court executing decree:-
>
> (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.
>
> (2)** (omitted)
>
> (3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court."
>
> **24.** A plain reading of the aforesaid provision makes it clear that the Executing Court is empowered to decide questions

> relating to execution, discharge or satisfaction of the decree and has no jurisdiction to go beyond the decree sought to be executed. In other words, it has to execute the decree as it is without changing the same. It is settled in law that the jurisdiction of Executing Court is limited to give effect to the decree as passed and not to assume the role of a trial court so as to substitute its own view in place of that expressed under the decree."

15. The plaintiffs had initially instituted Civil Suit No. 29-A/2018 seeking declaration and permanent injunction in relation to the subject property. The said suit was dismissed by the learned trial Court on 06.03.2012. The plaintiffs thereafter preferred an appeal and the appellate Court, while allowing the appeal, directed return of the plaint under Order 7 Rule 10 of the CPC with liberty to approach the competent Court in respect of the appropriate relief of specific performance of the contract. The said order was admittedly not challenged by the original defendant and consequently attained finality. Pursuant thereto, the plaintiffs instituted the suit for specific performance of contract on 07.07.2014. Learned counsel for the petitioners has indeed raised a substantial argument that, upon return of the plaint under Order 7 Rule 10 of the CPC, the plaintiffs could not have altered the nature of their claim and instituted a fresh suit by introducing a new cause of action and a new relief. It is also contended that the relief of specific performance was available to the plaintiffs at the time of institution of the earlier suit and, having omitted to claim such relief, the subsequent suit was barred by Order 2 Rule 2 of the CPC. Reliance has been placed upon **Virgo Industries (Eng.) Pvt. Ltd.** (supra). In that case, the Hon'ble Supreme Court considered the consequences of omission to claim the relief of specific performance in an earlier suit and the subsequent institution of a suit for specific performance arising out of the same cause of

action. However, the question before this Court is not whether the decree dated 13.02.2017 was correctly passed on merits or whether the suit for specific performance of contract was ultimately liable to be decreed. The question is whether the alleged violation of Order 2 Rule 2 CPC or the alleged bar of limitation rendered the decree a nullity so as to permit the executing Court to refuse its execution. These two questions have to be kept distinct. Even assuming, for the sake of argument, that the subsequent suit suffered from an objection under Order 2 Rule 2 CPC, or that the trial Court committed an error in appreciating the question of limitation, such an error would ordinarily constitute an error in adjudication and not an inherent lack of jurisdiction rendering the decree non est.

16. The same position applies to the objection based upon Article 54 of the Limitation Act. The petitioners contend that the agreement contemplated execution of the sale deed by 01.08.2005 and, therefore, a suit for specific performance of contract instituted in 2014 was beyond the prescribed period of three years. It is also contended that the cause of action shown in the subsequent plaint could not revive an otherwise time-barred claim. This contention, however, involves examination of the pleadings, the terms of the agreement, the date fixed for performance, the alleged subsequent conduct of the parties, the date of refusal, the cause of action pleaded in the suit and the finding recorded by the trial Court. These are matters relating to the merits and maintainability of the suit which were capable of being raised and adjudicated in the original proceedings. They do not, on the facts pleaded before this Court, demonstrate that the Court which

passed the decree lacked inherent jurisdiction over the subject matter or over the parties.

17. The record, as placed before this Court, further shows that the original defendant, Santosh Kumar Rajani, was alive when the suit for specific performance was instituted. He was served with summons and entered appearance. He filed his written statement and the issue of limitation was framed by the learned trial Court. Thus, this is not a case where the decree was passed behind the back of a person who was not a party to the proceedings or by a Court which had no jurisdiction to entertain the suit. The defendant thereafter remained ex parte at the stage of evidence, and the suit was decreed on 13.02.2017. The decree was not challenged either by an appeal or by an application under Order 9 Rule 13 of the CPC. The original defendant continued to remain alive until July 2019, but no challenge to the decree was made during his lifetime. This circumstance assumes importance because the objection now raised is not that the executing Court is confronted with a decree which is inherently incapable of execution. Rather, the petitioners seek to reopen the very basis upon which the decree was passed by contending that the suit ought not to have been entertained or decreed. Such an exercise would necessarily require the executing Court to examine whether the subsequent suit was maintainable, whether the cause of action was correctly pleaded, whether the suit was within limitation, whether the earlier proceedings attracted Order 2 Rule 2 and whether the findings recorded by the trial Court were legally sustainable. Such an exercise is plainly beyond the limited jurisdiction of the executing Court under Section 47 CPC.

18. The reliance placed by learned counsel for the petitioners upon **Virgo Industries** (supra) does not support the case of the petitioners at the stage of execution. The said judgment may be relevant for determining, in an appropriate proceeding, whether a subsequent suit is barred by Order 2 Rule 2 CPC on the facts of a particular case. But that principle cannot be employed in execution proceedings to reopen a decree which was passed after the defendant had entered appearance, filed his written statement, and had an opportunity to contest the suit. The distinction between the maintainability of a suit and the executability of a decree passed therein cannot be overlooked.

19. Likewise, the judgment in **St. George Shipping Co. Ltd.** (supra), relied upon by learned counsel for the petitioners, has to be understood in the context of the jurisdictional objection involved therein. The present case does not disclose any comparable inherent want of jurisdiction. The learned trial Court which passed the decree was admittedly the competent civil Court having jurisdiction to adjudicate the claim for specific performance of the contract. The objection raised by the petitioners essentially concerns the correctness of the adjudication and not the inherent competence of the Court.

20. On the contrary, the principles laid down in **Brakewel Automotive Components** (supra) squarely apply to the present controversy. The Hon’ble Supreme Court has emphasized that a decree cannot be treated as a nullity merely because an objection could have been raised against its correctness or because the judgment-debtor considers the decree erroneous. The jurisdiction under Section 47 CPC is confined to questions relating to execution, discharge or satisfaction

and does not confer upon the executing Court a power to re-examine the merits of the decree.

21. There is another significant aspect of the matter. The order by which the earlier plaint was returned under Order 7 Rule 10 CPC had itself attained finality. The defendant did not challenge the said order. Thereafter, the subsequent suit for specific performance of the contract was instituted before the competent Court, the defendant entered appearance and contested the proceedings, and the decree was ultimately passed. Whether the plaint filed thereafter was in conformity with the direction contained in the order returning the plaint, or whether the plaintiffs had impermissibly altered their pleadings, was a matter which was open to the defendant to raise before the Court trying the subsequent suit. Indeed, the defendant did participate in that proceeding. Having allowed the suit to culminate in a decree and having not challenged the decree in an appropriate proceeding, the petitioners, as his legal representatives, cannot invoke Section 47 CPC as a substitute for the remedies which were available to the original defendant against the decree. Their challenge proceeds on the premise that the Court ought to have dismissed the suit on limitation and under Order 2 Rule 2 CPC. Such a plea, even if assumed to have substance, would require an adjudication on the correctness of the decree. It does not establish that the decree was void ab initio.

22. The plea that the petitioners would become shelterless upon execution of the decree also cannot furnish a ground for declaring the decree inexecutable. Equitable or sympathetic considerations cannot confer jurisdiction upon the executing Court to disregard a decree which has attained finality. The executing Court is bound to enforce the decree

according to its terms unless its execution is barred by law or the decree is shown to be a nullity. The contention that repeated applications were filed before the executing Court is also a circumstance which reinforces the need to confine the proceedings to the limited parameters of Section 47 CPC. Once the decree has attained finality and the objections raised do not disclose inherent lack of jurisdiction or nullity, the execution proceedings cannot be indefinitely stalled by reopening issues which belonged to the original suit.

23. The recent judgment of the Hon'ble Supreme Court in **Maurice W. Innis** (supra) also reiterates the fundamental principle that the executing Court must execute the decree in its terms and tenor and cannot assume the role of the Court which adjudicated the suit. The decision, while recognizing the limited exception in the case of a nullity, does not enlarge the jurisdiction of the executing Court to examine the correctness of the decree on merits.

24. In view of the aforesaid discussion, this Court finds that the objections raised by the petitioners under Section 47 CPC essentially seek to challenge the correctness and legality of the decree dated 13.02.2017, rather than its inherent validity or executability. The allegations regarding limitation under Article 54 of the Limitation Act, applicability of Order 2 Rule 2 CPC and the alleged change in the nature of the claim pursuant to the return of the plaint are matters which could have been agitated before the Court which adjudicated the suit and, thereafter, in an appropriate appellate or other proceeding against the decree. They do not render the decree a nullity.

25. Consequently, the learned executing Court has committed no jurisdictional error in rejecting the application filed by the petitioners under Section 47 CPC. The impugned order dated 24.08.2024 passed by the learned 3rd Additional District Judge, Durg, in Execution Case No.28 of 2022 does not warrant interference in the exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

26. The writ petition, accordingly, deserves to be and is hereby **dismissed**. No order as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok