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CRP.No.6057 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:05.01.2026

Pronounced on:09.01.2026

CORAM

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

**CRP.No.6057 of 2025**

**and**

**CMP. Nos.32280 & 29887 of 2025**

Mrs.Ulagambal (Died)

1.N.Raghu

2.Mrs.Ramani

3.Mrs.Rama

Petitioner(s)

Vs

1.Vijayaraj

2.N.Ramesh

Respondent(s)

**PRAYER:** This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 16.12.2024 in E.A. SR. No.72518 of 2024 in E.P. No.4015 of 2022 in O.S. No.11773 of 2010 on the file of the learned IX Assistant Judge in the City Civil Court at Chennai and allow the Civil Revision Petition.

For Petitioners : Mr.S.K.Samy

For Respondents : Mr.V.C.Janardhanan for  
Mr.S.Narendra Moorthy for R1  
No Appearance for R2

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**ORDER**



The judgement debtors are the revision petitioners, aggrieved by rejection of their application under Section 47 of CPC in EA.SR.No. 72518 in 2024.

2. I have heard Mr.S.K.Samy, learned counsel for the revision petitioners and Mr.V.C.Janardhanan for Mr.Narendra Moorthy, learned counsel for the first respondent decree/ holder.

3. The learned counsel for the petitioners would contend that the first respondent had filed a suit for specific performance and though a decree was passed on 13.05.2011 and an appeal therefrom was also pending, the plaintiff did not take any steps to pay the balance sale consideration and belatedly he took out I.A.No. 1 of 2019 for extension of time to deposit Rs.14,40,000/- and I.A.No.2 of 2019 to permit him to deposit the said Rs.14,40,000/- to the credit of O.S. No.11773 of 2010.

4. Both the applications according to the learned counsel for the revision petitioners were erroneously allowed and referring to the date of the order, viz., 26.02.2021, the learned counsel would submit that in the intervening period, COVID pandemic also affected normal day-to-day business and the first revision petitioner being an aged person and the



other two petitioners were also incapacitated due to personal problems and in such circumstances, the Court ought to have afforded an opportunity to the petitioners to put forth their objections by way of the application under Section 47 CPC. The learned counsel would therefore pray for the revision being allowed.

5. Per contra, Mr.V.C.Janardhanan, learned counsel appearing for the first respondent/plaintiff would contend that the Applications in I.A.Nos.1 & 2 of 2019 were adjourned on several occasions in order to provide an opportunity to the petitioners to file their counter and only thereafter, the Court has proceeded to hear the first respondent's Counsel and allowed the Applications. Insofar as the petition filed under Section 47 CPC, Mr.V.C.Janardhanan, learned counsel for the first respondent would contend that there is no merit in any of the objections taken by the revision petitioners.

6. Referring to the order passed by the Executing Court, the learned counsel would contend that the Court has rightly found that the objections that have been raised in the Section 47 application are outside the very scope of the Section itself and when the orders passed in



IA.Nos.1 & 2 of 2019 were not challenged, it was not open to the petitioners/ judgement debtors to invoke Section 47 and claim that the decree is a nullity and that it is not executable. The learned counsel would therefore pray for the dismissal of the revision petition.

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

8. The revision petitioners, suffered a decree in OS.No.11773 of 2010 which was a suit for specific performance. The suit was decreed on 13.05.2011. Though the first respondent was called upon to deposit the balance sale consideration within 30 days from the date of decree, the said condition was not initially complied with. The decree holder filed I.A.No.1 & 2 of 2019, seeking extension of time as well as permission to deposit the balance sale consideration and both the applications were allowed on 26.02.2021. It is the further contention of the petitioners that the suit itself was filed beyond a period of 3 years from the date of the agreement of sale and therefore, it was barred by limitation and the decree is consequently inexecutable.



9. I find that, as against the decree passed by the Trial Court, the petitioners preferred a First Appeal before this Court in A.S.No. 481 of 2011. The said First Appeal was dismissed on 14.12.2017 and aggrieved by the same, the petitioner moved the Hon'ble Supreme Court in SLP. (Civil).No.16359 of 2018 which was also dismissed on 20.07.2018. The contention regarding the Execution Petition being barred by limitation has been elaborately dealt with by the Executing Court and rightly, in my considered opinion, the Executing Court has found that the matter having attained finality only in July 2018 before the Hon'ble Supreme Court, the Execution Petition was certainly maintainable and in time.

10. As regards the scope of Section 47 CPC, the Executing Court referring to the decision of the Hon'ble Supreme Court in ***Dhurandhar Prasad Singh vs. Jai Prakash University and others***, reported in (2001) 6 SCC 534, has come to the conclusion that the objections now taken in the Section 47 application are outside the very scope of the section itself and consequently, the Executing Court held that the Application under Section 47 CPC was not maintainable and proceeded to reject the same.

11. The revision petitioners have admittedly not been successful in



challenging the orders passed in I.A.Nos. 1 & 2 of 2019, though it is claimed in the affidavit filed in support of the application in E.A. SR. No.72518 of 2024 that applications have been filed to set aside the ex-parte orders, there is nothing brought on record to establish such fact. Be that as it may, as long as the order extending time for deposit of the balance sale consideration has not been set aside, it will not afford a ground for the judgment debtors to invoke Section 47 of the Code of Civil Procedure and contend that the decree for specific performance has become inexecutable on account of delay and laches.

12. I find that even the grounds of revision are directed against the orders passed in I.A.Nos.1 & 2 of 2019, which cannot be gone into in the present revision petition which is only challenging the rejection of the Section 47 CPC application. The contention of the petitioners that on account of non-deposit of balance sale consideration, the decree has become inexecutable and consequently, a nullity cannot be countenanced for the simple reason that pursuant to the Applications in I.A.Nos.1 & 2 of 2019 being allowed, the balance sale consideration has been deposited and the delay if any, has been condoned by act of Court. In such circumstances, the said question cannot be gone into in an application



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under Section 47 of CPC which is limited to execution, discharge and satisfaction of the decree alone. Therefore, the very objection regarding the non-deposit of the balance sale consideration in time, which too has been subsequently cured, cannot be the subject matter of application under Section 47 of the Code of Civil Procedure. The Executing Court has rightly held that the Section 47 Application is not maintainable and proceeded to reject the same. I do not find any grounds warranting interference with the said order passed by the Executing Court in revision.

13. In fine, this Civil Revision Petition is dismissed. Connected Miscellaneous Petitions are also dismissed. No costs.

**09.01.2026**

rkp

Neutral Citation Case : Yes

Internet: Yes

Index : Yes

To:

The IX Assistant Judge in the City Civil Court at Chennai.



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

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**Pre-delivery order in**  
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