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CRP Nos. 2457 and 2459 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP Nos. 2457 and 2459 of 2026
and CMP Nos.10477 and 10481 of 2026**

1. Parvathy,
W/o.Late Ramasamy, Door No.83,
Sembampalayam, Villarasam Patty Village,
Erode Taluk, Erode District. and another
2. Neelavathi,
W/o.Krishnasamy, Door No.83,
Sembampalayam, Villarasam Patty Village,
Erode Taluk, Erode District.

Petitioners in both the revisions

Vs

1. A.Ranjith,
S/o.K.P.Arumugham, D.No.5/835, Mettu
Palaniyandavar Kovil Street,
Kalingarayanpalayam, Erode Taluk, Erode
District.

Respondent(s)

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E.K.Palanisami
s/o. Late M.Kumarasami, D.No.17/B-48,
Ramamoorthi Nagar, Krishnampalayam,
Erode 638 003.

Respondent(s)

Civil Revision Petitions filed under Section 115 of Civil Procedure Code against the order dated 24.03.2026 in E.A.No.3 of 2025 in EP Nos.2 and 3 of 2024 in



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O.S.Nos.51 and 52 of 2011 on the file of I Additional District Court, Erode.

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For Petitioner(s): K.J.Parthasarathy

For Respondent(s): Mr.P.Valliappan
Senior Counsel
For M/s.Pv Law Associates

COMMON ORDER

Challenging the impugned order passed in EA No.3 of 2025, the judgment debtors 1 and 3 have preferred the above revision.

2. Before the executing court, the decree holders filed an application in E.A.No.3 of 2025 to execute the decree as per the sale deed executed by the Court in O.S.Nos.51 and 52 of 2011. The judgment debtors raised objection with regard to the extent of the property stating that the decree holders are entitled to get delivery of possession of 3.36 acres and the remaining 62 cents belonged to the judgment debtors.

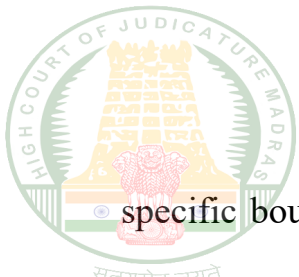
3. On hearing both sides the executing court held that the revision petitioners/judgment debtors should hand over 2/3 shares to the decree holders and as per the decree passed, already 1/3 shares belonged to the second defendant was executed through sale deed in favour of the decree holders on 22.09.2014 and the remaining 2/3



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cents belongs to the decree holders. Accordingly, they are entitled to get delivery of possession in respect of 2/3 for which the judgment debtors have no right to cause any interference nor entitled to raise any objection and accordingly, dismissed the application. Aggrieved by the same, the present revisions have been preferred.

4. Learned counsel for the revision petitioners submits that the executing court had committed material irregularity and material error apparent on the face of the record in passing the orders without even taking into consideration the pleadings and not exercising the powers vested in it and the learned counsel also submits that the executing court failed to peruse the legal and tenable defence raised by the revision petitioners/judgment debtors as to the extent of the property which is the subject matter of the *lis* in terms of the decree is only 3.36 Acres in R.S.No.20/2 Thindal village and the executing Court failed to appreciate that the suit schedule property was only 3.36 acres in R.S.No.20/2 Thindal Village and the Execution Petition was filed for conveyance of 2/3rd UDS of the revision petitioners herein in 3.36 acres in favour of the decree holders and the executing Court also failed to appreciate that the extent conveyed under the sale deed executed in favour of the decree holders under the Sale Deed dated 06.08.2025 registered as Document No.5011 of 2025 in the office of SRO Erode was only 2/3 UDS in 3.36 acres of land in R.S.No.20/2 Thindal village with no



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specific boundaries and the executing court failed to appreciate that the total extent of land owned by the revision petitioners/judgment debtors in R.S.No.20/2 Thindal Village is 3.98 Acres out of which only 3.36 acres is the subject matter of the *lis* and for which alone the respondents herein entered into the suit agreement, decree of specific performance came to be passed and confirmed in appeal and an excess of 0.62 acres cannot be subjected to any *lis* or execution and the executing court failed to appreciate that as the extent conveyed in favour of the decree holders herein was only 2/3 UDS out of 3.36 acres without specific boundaries and the execution petition is only for 2/3 UDS out of 3.36 acres and their vests 0.62 acres with the revision petitioners and the only remedy available to the decree holders is to approach the appropriate forum for the relief of partition and cannot claim possession in the present execution and the executing court failed to appreciate that the decree holders would be entitled to constructive possession and not actual possession and submits that the executing court failed to consider the objections raised on the side of the judgment debtors. They are entitled to get an extent of 62 cents and the decree holders are entitled to 3.36 acre, but the executing court failed to appreciate the extent and erroneously ordered delivery. Hence, they have filed the present revisions praying to set aside the order.

5. By way of reply, learned counsel for the decree holders/plaintiffs submits

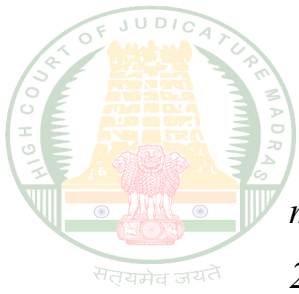


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that the suit was filed in the year 2011 against the defendants who are the mother, son and daughter and the defendants have contested the suit by filing the written statement and no where they have stated that an extent of 0.62 cents is available for them. Suit was decreed and thereafter appeals in A.S.Nos.288 to 290 of 2014 were preferred and all the appeals were dismissed and Special Leave Petitions were dismissed by the Hon'ble Supreme Court confirming the findings of the trial court. Thereafter, execution proceedings were initiated. In all other proceedings, the suit schedule was confirmed. Further more, the second defendant accepted the decree and executed the sale deed in the year 2014 and the judgment debtors have no right to cause any interference which was rightly appreciated by the executing court which requires no interference.

6. To support his argument, learned counsel for the respondents/deGREE holders relied on the decision reported in **2023 SCC Online SC 1395 (Pradeep Mehra vs Harijivan J.Jethwa (since deceased Thr.Lrs.) and Others** wherein, it is held that the during the execution proceedings, the judgment debtors are not entitled to raise new grounds challenging the decree which was already settled. The relevant paragraph is extracted hereunder:-

“20. As we have already referred above, this order was taken in revision by the judgment debtors, where the revision was allowed and the order dated 28.09.2017 was set aside. The decree holder

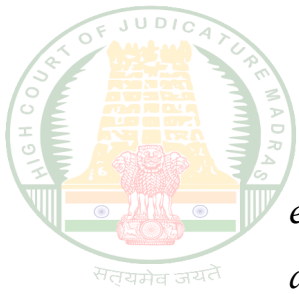


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moved a petition before the Bombay High Court under Article 226/227 of the Constitution of India and the main ground taken before the High Court was that the revisional court fell into an error in holding that the application moved by the judgment debtors for setting aside the order dated 12.02.2013 comes within the purview of the power of the executing court given to it under Section 47 of the CPC. It was submitted by the decreeholder before the High Court that the order dated 12.02.2013 had attained finality and res judicata would apply against the debtors. In support of the submission the decree holder relied upon a decision of this Court given in Barkat Ali vs Badrinarain (D) by Lrs., (2008) 4 SCC 615, where this Court reiterated the settled position of law that the principles of res judicata are not only applicable in respect of separate proceedings but the general principles of res judicata are also applicable at the subsequent stage of the same proceedings and therefore the same court will be precluded to go into that question which has already been decided, or deemed to have been decided by it in the earlier stage. In other words, it will be barred by the principle of res judicata, or at least by the principle of constructive res judicata. The logic here is that an execution proceeding works in different stages and if the judgment debtors have failed to take an objection and have allowed the preliminary stage to come to an end and the matter has moved to the next stage, the judgment debtors cannot raise the objection subsequently, and revert back to an earlier stage of the proceeding. This is exactly one of the reasons given by the



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executing court in its order dated 28.09.2017 which we have already referred above. Merely, because it has not specifically referred to the principle of res judicata will not make any difference.

7. He also relied on the decision of the Hon'ble Supreme Court in the case of ***Maurice W.Innis vs Lily Kazrooni @ Lily Arif Shaikh*** reported in ***2026 SCC Online SC 554***.

8. I have heard the submissions of the learned counsel on either side and perused the materials available on record.

9. On perusal of the records, it reveals that the suit was filed in the year 2011 with schedule of property and confirmed upto Hon'ble Supreme Court and already the second defendant has executed the sale deed for 1/3rd share and the remaining 2/3 share the decree holder has now preferred execution petition. The objections raised on the side of the judgment debtors about the extent of the property has already been negated and they have not stated nor proved about that an extent of 0.62 cents is available on the ground either in the written statement nor any of the defence before the trial court or in the appellate court and now they have raised a new plea before the execution proceedings, which is not sustainable by the ratio laid down in the referred authority



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who supports the case of decree holders. On perusal of the records it also reveals that the revenue officials issued Ayan patta after due verification and as on date the patta for the suit property stands in the name of the decree holders which was confirmed by the Division Bench of this Court.

10. Therefore, the plaintiffs/decreed holders are entitled to 2/3rd share in the property. Therefore, the executing court has rightly allowed the petitions which requires no interference.

11. In the result, both the civil revision petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

16.06.2026

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Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order

To

The I Additional District Court, Erode

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