



WEB COPY

CRP No. 2938 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 2938 of 2025 and

CMP No.16567 of 2025

1. Subashini
W/o. Karuppusamy, No.2479 LIG II, TNUDP
Colony, Gandhi Maa Nagar Peelamedu,
Coimbatore - 104.
2. Pavitradevi
W/o. Balasubramaniam, No.129-B, Pudhu
Colony Kilakku, 15, Velampalayam Village and
Post, Tiruppur - 652.

..Petitioner(s)

Vs

1. Dhanapriya
D/o. Late Kandasamy, Dam Thottam, Navakkarai
Village, Valaiyar Post, Maddukkarai Taluk,
Coimbatore District. Kandhathal (Died).
2. K. Velusamy
S/o. Kadaikara Karuppusamy, Near
Putruamariammal Kovil Street, D.No.119, SIHS
Colony, Aerodrame Road, Singanallur,
Coimbatore.
3. K. Dhamodaran
S/o. Kadaikara Karuppusamy, Near
Putruamariammal Kovil Street, D.NO.30, SIHS
Colony, Aerodrame Road, Singanallur,
Coimbatore.



4. K. Selvaraj
S/o. Kadaikara Karuppusamy, Near
Putruamariammal Kovil Street, D.No.120, SIHS
Colony, Aerodrome Road, Singanallur,
Coimbatore.

..Respondent(s)

PRAYER: The Civil Revision Petition is filed under Article 226 of the Constitution of India to allow the CRP by setting aside the fair and final order dated 27.01.2025 in Tr.O.P.No.298 of 2023 passed by the Principal District Judge, Coimbatore, and consequently withdraw EP No.6 of 2017 in OS No.320 of 1991 from the file of the District Munsif, Sulur and transfer the same to the file of the III Additional District Judge, Coimbatore for joint disposal along with OS No.901 of 2022.

For Petitioner(s): Mr. D.R.Arun Kumar

For Respondent(s): Mr. N.Manokaran

ORDER

This civil revision petition has been filed challenging the order passed by the Trial court, dismissing the application filed by the petitioners seeking transfer of execution petition filed by the first respondent for trial along with O.S.No.901 of 2022.



2. It is the case of the petitioners that they filed a suit in O.S.No.901 of 2022 for partition against the first respondent and others on the file of Principal District Court, Coimbatore. In the said suit, the petitioners also sought for a declaration that the preliminary decree obtained by the first respondent in O.S.No.320 of 1991 on the file of III Additional Sub Court, Coimbatore was null and void and also sought for a declaration that the final decree dated 13.09.2004 obtained by the first respondent in I.A.No.1166 of 2004 on the file of Principal District Munsif Court, Coimbatore was null and void. According to the petitioners, the first respondent obtained a decree for partition without impleading the petitioners' mother Subbathal, who has got share in the suit property.

3. The learned counsel for the petitioners would vehemently contend that pursuant to the final decree passed in I.A.No.116 of 2024 in O.S.No.320 of 1991, the first respondent filed an execution petition in E.P.No. 6 of 201 on the file of District Munsif Court, Suler. Since the properties involved in O.S.No.901 of 2022 filed by the petitioners and the E.P.No.6 of 2017 in O.S.No.320 of 1991 filed by the first respondent are one and the same, the execution petition pending on the file of the District Munsif Court, Suler shall be transferred to the Principal District Court, Coimbatore for joint trial along with O.S.No.901 of 2022.



4. The petitioner is not entitled to seek transfer of execution petition for joint trial along with O.S.No.901 of 2022 filed by them. Merely because the properties involved in both the suits are one and the same, it can not be tried together, as the issues involved in the suit are beyond the scope of points to be decided in the execution proceedings. As far as the execution proceedings are concerned, the court is only concerned with the executability of the decree, whereas, the substantial rights of the parties have to be decided in the suit. Further, if it is the case of the petitioners that the decree obtained by the first defendant was null and void, the petitioners have got remedies available under Order 21 of CPC which can be raised in the execution proceedings itself. Further, the petitioners are also entitled to seek appropriate interim order in the present suit in O.S.No.901 of 2022. The Trial Court rightly dismissed the transfer application by observing that the execution petition cannot be tagged with the original suit. I do not find any illegality or irregularity in the order passed by the Trial Court.

5. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

23-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MST



To

1. The III Additional District Judge, Coimbatore.

2. The District Munsif, Sulur.



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S.SOUNTHAR, J.

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