



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.02.2026

Pronounced on: .02.2026

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.4496 of 2025
and CMP. No.22886 of 2025**

Kasilingam

Petitioner(s)

Vs

Seeranga Gounder (Died)

- 1.Saraswathi
- 2.Chitra
- 3.Kala
- 4.Prabu Sankar
- 5.Vasanthi
- 6.Sengoittaiyan

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decretal orders dated 23.07.2025 passed in R.E.A. No.160 of 2022 in R.E.P. No.25 of 2000 in O.S. No.816 of 1985 on the Subordinate Judge, Attur, Salem District.

For Petitioner : Mr.V.Raghavachari,
Senior Counsel for
Mr.K.P.Pramodhkumar

For Respondents : Mr.R.Nalliappan

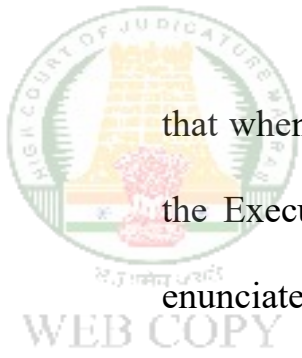


ORDER

The revision petitioner challenges an order passed in REA.No.160 of 2022, which was an application filed by the revision petitioner under Section 47 of the Code of Civil Procedure read with Section 151 of the CPC.

2. I have heard Mr.V.Raghavachari, learned Senior Counsel appearing for the revision petitioner for Mr.K.P.Pramod Kumar and Mr.R.Nalliyappan, learned counsel appearing for respondents 1 to 5.

3. The submissions of Mr.V.Raghavachari, learned Senior Counsel are that in a suit for specific performance of an agreement of sale, the sale consideration was fixed at Rs.45,000/- out of which an advance of Rs.25,000/- had been paid by the plaintiff, leaving a balance of Rs.20,000/-. Expressing readiness and willingness, the plaintiff had filed a suit for specific performance in O.S.No. 816 of 1984. According to the learned Senior counsel, the defendant was not even served with summons in the said suit and therefore, the defendant had filed O.S.No.304 of 1985, challenging the decree in O.S.No.816 of 1984. The learned Senior Counsel would harp on the conduct of the respondents, especially the mutually destructive and inconsistent stands taken, one in the plaint in the suit for specific performance and the other in the written statement filed in O.S.No. 304 of 1985. The learned Senior Counsel would therefore state



that when the respondents have played fraud upon the Court and the petitioner, the Executing Court ought to have applied the well settled principles of law enunciated by the Hon'ble Supreme Court as well as this Court, holding that fraud vitiates all actions and it can be challenged even in collateral proceedings. It is therefore the submission of the learned Senior Counsel that, when the decree is questioned as being fraudulently obtained, by taking out an application under Section 47 CPC, the Executing Court should not have shut its eyes and should have independently decided the issue.

4. Taking me through the impugned order, Mr.V.Raghavachari, learned Senior Counsel would further contend that the Executing Court has not even addressed the issue of fraud that has been alleged by the revision petitioner and has erroneously dismissed the Application on irrelevant facts and circumstances. The learned Senior Counsel would further state that even though the independent suit filed by the defendant in O.S.No.816 of 1984 viz., O.S.No. 304 of 1985 was dismissed, he would contend that it was only dismissed for non-prosecution and merely because a suit has been abandoned, it will not amount to any right accruing to the adversary party in the said suit. The learned Senior Counsel would further state that the question of *lis pendens* will also not apply to the facts of the present case and the order of the Trial Court is liable to be interfered with.



5. The learned Senior Counsel has relied on the following decisions:

- (i) *A.V. Papayya Sastry and Others v. Govt of AP and Others*, reported in (2007) 4 SCC 221;
- (ii) *Ram Chandra Singh v. Savitri Devi and Others*, reported in (2003) 8 SCC 319;
- (iii) *Ram Chandra Singh v. Savitri Devi and Others*, reported in (2003) 8 SCC 319;
- (iv) *Mr.R.Vetri and another V. The District Collector and another*, in [W.A.No. 2170 of 2022](#), dated 13.04.2023;
- (v) *Celir LLP v. Sumati Prasad Bafna and Others*, reported in (2024) SCC OnLine 3727;
- (vi) *Pitamber and another v. Board of Revenue, U.P., Allahabad and others*, reported in (1998) SCC OnLine All 927;
- (vii) *Loke Nath Sahu v. Achutananda Dass and another*, in Second Civil Appeal No. 1840 of 1907, dated 29.04.1909 and
- (viii) *Annammal and Others v. Chellakutti*, in LPA No. 59 of 1960, dated 31.07.1962.

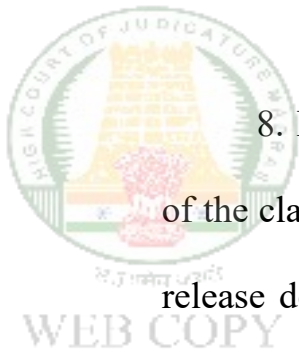
6. Per Contra, Mr.Nalliyappan, learned counsel for the respondents would state that 7th respondent executed a sale agreement on 04.03.1984 in favor of the 1st respondent with regard to Item 3 of the claim petition property in the Execution Petition. In order to enforce the said agreement, the said Seeranga Goundar/1st respondent filed a suit for specific performance in O.S.No.816 of 1984 and a decree was passed, where there was a compromise recorded on



10.12.1984 and the defendant, Sengottaiyan was directed to execute the sale deed.

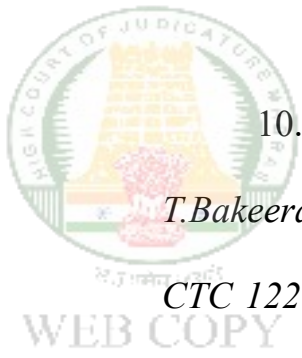
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7. The learned counsel would further state that REP.No.103 of 1985 was filed before the Sub- Court, Salem by Seeranga Goundar for execution of the decree in O.S.No.816 of 1984. In the meantime, the 7th respondent Sengottaiyan had challenged the decree in O.S.No. 816 of 1984 by way of fresh suit and therefore, the Execution Petition was not pressed. The independent challenge according to Mr.Nalliyappan, in O.S.No.304 of 1985 was unsuccessful, with the dismissal of the suit on 04.02.1999 and attempts to set aside the dismissal for default, not only in appeal but also in revision were unsuccessful. He would therefore state that subsequently a fresh Execution Petition was filed in REP.No. 25 of 2000 before the Sub Court, Attur. In the meantime, according to learned counsel for the respondent, Mr.Nalliyappan, Sengottaiyan clandestinely executed a sale deed in favour of one Mangappudaiyar, who is the father of the claimant on 28.08.1996 pending the litigation. According to the learned Counsel for the respondents, the sale deed itself is void and hit by Section 53 of the Transfer of Property Act and it is also hit by doctrine of *lis pendens* enunciated under Section 52 of the Transfer of Property Act.



8. He would further state that when the sale itself in favour of the father of the claimant was void, the claimant could not have staked a claim based on a release deed executed by his sister, Alamelu in his favour on 28.07.2021. Mr. Nalliyappan would also state that pending the Execution Petition, the petitioner also filed an application in REA.No.160 of 2022 to record his rights under the 1996 sale deed in favour of his father and the 2021, release deed in his favour. He would further state that the Executing Court has rightly found that the petitioner cannot claim any rights under the void sale deed of the year 1996 and consequently, no rights will flow under the release deed executed by sister of the claimant as well.

9. The learned counsel would further state that when the decree in OS.No.816 of 1994 has become final and confirmed by this Court in CRP.No.2028 of 2004, the matter attains finality and the very same objections cannot be raised in the Section 47 application and it would clearly amount to *res judicata*. In any event it is the submission of learned counsel, Mr.Nalliyappan that the claimant cannot claim any better right or title than the judgment debtor and when the judgment debtor had no right in the first place, the claimant was not entitled to question the executability of the decree.



10. The learned counsel has relied on the decision of this court ...

T.Bakeerathan and others vs. C.Jayaraman and others reported in 2025 (5)

CTC 122 and the decision of the Hon'ble Supreme Court in Danesh Singh vs. Har Pyari reported in 2025 SCC Online SC 2805.

11. I have carefully considered the arguments advanced by the learned Senior Counsel for the petitioners and Mr.Nalliyappan, learned counsel for the respondents. I have also gone through the records, including the typed set of papers, as well as the decisions on which reliance is placed on.

12. It is an admitted fact that the 7th respondent entered into an agreement of sale with the deceased 1st respondent and a suit for specific performance came to be decreed and when the same was sought to be executed in REP. No.103 of 1985 since the defendant, the 7th respondent filed O.S.No.304 of 1985, the 1st respondent chose to not press the Execution Petition in order to await the decision in OS.No.304 of 1985 which challenged the decree in OS. No.816 of 1984.

13. Admittedly, the suit in O.S.No.304 of 1985 was dismissed on 04.02.1999. An attempt was made by the 7th respondent to restore the suit to file, by filing I.A.No. 147 of 2000. The Trial Court dismissed the said application.



The 7th respondent aggrieved by the same preferred in CMA.No. 3 of 2003 and the Appellate Court also confirmed the order of the Trial Court. Not satisfied with the concurrent adverse findings, the 7th respondent filed CRP.No. 2028 of 2004. The revision was dismissed by this Court on 27.10.2017. Thus, with the dismissal of the revision, sounding a death knell to OS.No.304 of 1995, the decree in OS. No.816 of 1984 became valid and executable. It is for execution of the said decree in OS.No. 816 of 1984 that REP.No.25 of 2000 has been filed. The petitioner took out an application under Section 47 of the CPC, contending that his father Mangappudaiyar had purchased the property from the 7th respondent Sengottaiyan on 28.08.1996 under a registered document for valid sale consideration and that he had become the absolute owner of the same.

14. It is the further case of the petitioner that after the demise of Mangappudaiyar on 15.10.2016, his daughter Alamelu released her share in favor of the petitioner on 28.07.2021 and thus, the petitioner has become the absolute owner of the entire property purchased from the 7th respondent. It has been contended in the Section 47 petition that neither the petitioner nor his father, Mangappudaiyar were aware of the suit in O.S.No.816 of 1984 and that the 7th respondent had suppressed the existence of the agreement of sale with the 1st respondent, even at the time of execution of sale deed in favour of the petitioner's father. It is a further claim of the petitioner that a portion of the



properties which belonged to Mangappudaiyar have also been included in the Execution Petition, though no sale deed can be executed in favour of the respondents herein regarding these properties. The Claimant also contends that his father, Mangappudaiyar, was a bona fide purchaser for value, without notice of the agreement of sale and when he has been in possession and has also developed the property by putting up new construction and mutating revenue records in his favour, he is entitled to object to the execution. He has also stated that the petitioner has perfected his title by way of adverse possession. He has also contended that the Execution Petition has been filed collusively by the respondents, namely legal representatives of Seeranga Goundar and 7th respondent, Sengottaiyan. In short, the petitioner objected to execution of sale deed in favour of the respondents 1 to 6, citing the above objections. A counter affidavit was filed by the respondents / decree holders and the Executing Court dismissed the application under Section 47 CPC.

15. Though extensive arguments were advanced by Mr.V.Raghavachari, learned Senior Counsel that fraud has been played and several judgments have been relied on for driving home the point that fraud would vitiate all acts, including the executability of decree in OS. No.816 of 1984, from a reading of the entire Section 47 application, I am unable to even see one sentence where the petitioner alleges fraud. He only goes on to state that his father is a bona



fide purchaser and he had no notice. It is not the case of the petitioner that the defendant in the suit was not served with summons and therefore, fraud has been played. In fact, I find that in OS.No.816 of 1984, the 7th respondent was represented by a counsel and a memo was also filed submitting to a decree for specific performance. The 7th respondent, no doubt attempted to challenge the said decree by filing an independent suit. However, admittedly the said application was dismissed. The 7th respondent did not abandon the proceedings then and there. If at all which had been done, probably the learned Senior Counsel's arguments can be taken into consideration that it will not accrue any right in favour of the adversary party.

16. However, dissatisfied with the dismissal of his application to restore the suit, the 7th respondent not only preferred a statutory appeal, but also a revision before this Court and both the appeal and the revision came to be dismissed, thereby foreclosing all rights of the 7th respondent. It is thereafter not open even to the 7th respondent to contend that fraud has been played, much less to the petitioners who claim to have purchased the property, pending litigation only, in 1996, from the said 7th respondent himself. If at all the petitioners feign ignorance of the decree passed in favor of the respondents in OS. No.816 of 1994, they can only take the 7th respondent to task for having suppressed the decree and also dismissal of his attempt to restore the suit culminating attaining



finality before this Court in revision proceedings. As against the contesting respondents 1 to 6, no case of fraud is made out.

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17. In the light of the above, I am unable to countenance the submissions of the learned Senior Counsel that the respondents have played fraud upon the Court. None of the decisions that have been relied on in this regard, which all relate to cases where the Court found that fraud had been played, would apply to the facts of the present case.

18. As regards the contradictory stands taken by the respondent, one in the suit for specific performance and the other in the written statement filed in O.S.No.304 of 1985, no doubt in the suit, I find that the plaintiff has stated that upon entering the sale agreement on 04.03.1984, on the same day, a Vardhamanam letter was also executed and possession of the properties were given to the plaintiff. In the written statement filed in OS. No.304 of 1985, the defendant has stated that, Sengottaiyan was living with him in the suit property as an employee of Sago factory and that believing him that he would purchase the property in his name and when he was to go out of employment, an agreement was entered into for purchase of the property for Rs.45,000/- and an advance of Rs.25,000/- was paid and that the agreement was drawn up. No doubt, this has not been pleaded in the suit for specific performance. Equally,



the averments regarding the Vardhamanam letter are also not stated in the written statement in OS.No.304 of 1985.

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19. However, I do not see how these factors would in any manner dilute the decree for specific performance which was based on the agreement of sale dated 04.03.1984, especially when the then lawful owner Sengottaiyan himself represented by Counsel had submitted a decree, based on which this relief of specific performance was granted. Therefore, having purchased the property from Sengottaiyan, pending a litigation with the respondents and long after the decree passed in favour of the respondents 1 to 5, the petitioner, as rightly contended by Mr.Nalliyapan, can at best take up the defense available to the judgment debtor, viz., the 7th respondent. In fact, the 7th respondent is a party to the Execution Petition and he has not objected to the Execution Petition as well.

20. This Court in *Bakeerathan's case* (referred herein supra) held that any purchase *pendente lite*, after a decree is passed against predecessors of the purchasers, cannot confer title to the property and that the doctrine of *Lis pendens* would apply and the purchaser of such a property from the judgment debtor cannot resist or accept in execution of the decree, since, the predecessors had no title to convey in favour of the purchasers.



21. In *Danesh Singh's case* (referred herein supra), the Hon'ble Supreme Court explaining the doctrine of *lis pendens* and applicability of Order 21 CPC and Section 47 CPC, held that when transactions are made after the decree came to be passed, it would certainly be hit by doctrine of *lis pendens*.

22. As regards the decisions that have been relied on by learned Senior Counsel, Mr.V.Raghavachari, the judgements all relate to fraud and I have also found that it is not even the case of the 7th respondent, the defendant/original judgment debtor that the decree was obtained by nullity and in any event, his challenge to the decree for specific performance was also unsuccessful up to this Court. In such circumstances, I am unable to agree with submissions of Mr.V.Raghavachari, learned Senior Counsel that, when predecessor abandoned the suit, it will be open to the subsequent purchaser to canvass all rights and objections that were available to the original judgment debtor. This is not a case where there has been any abandonment. Even in the Execution Petition, the judgment debtor is a party and even in this revision he is the 7th respondent. All attempts made by the 7th respondent to nullify the decree for specific performance were admittedly ended in failure and therefore, I do not see how the petitioner claiming under the 7th respondent can allege fraud, that too fraud played as between the plaintiff and the defendant in the suit.



23. In fact, the with the dismissal of O.S.No.304 of 1985 and the dismissal of the restoration application having become final, the decree in O.S.No. 816 of 1984 stands validated and in the said suit admittedly the 7th respondent through counsel has entered appearance and also submitted to decree based on which alone, the Execution Petition came to be filed. Therefore, it is too late in the day for a person claiming under the original judgment debtor to contend that the judgment debtor was not properly served with summons in the suit.

24. With regard to the decision of the Hon'ble Supreme Court in *Cellir LLP's case*, (referred herein supra), the Hon'ble Supreme Court laid down conditions for the doctrine of *lis pendens* to apply. Relying on the said decision, more specifically paragraph 158, it is the submission of Mr.V.Raghavachari, learned Senior Counsel that the conditions for application of the doctrine of *lis pendens* are not satisfied in the present case. The view of this Court in *Annammal's case* (referred herein supra), has been approved by the Hon'ble Supreme Court.

25. The Division Bench of this Court in *Annammal's case* (referred herein supra), held that a dismissal of a suit brought about by abandonment of the same by the Plaintiff will not operate to affect the title secured by a purchaser



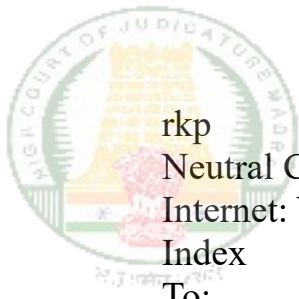
pendente lite. This decision is also of no avail since, I have already discussed herein above that there is no abandonment, as was in the facts of the case before the Hon'ble Division Bench.

26. With regard to Celir LLP's case, (referred herein supra), also these conditions have been duly elaborated in a later decision of the Hon'ble Supreme Court in Danesh Singh's case, (referred herein supra), where the Hon'ble Supreme Court held that any transaction after the decree would certainly be hit by the doctrine of *lis pendens*.

27. In the light of the foregoing, I am unable to see any infirmity or error committed by the Executing Court in dismissing the Section 47 application filed by the petitioner and there is no merit.

28. In fine, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. Considering that the R.E.P is of the year 2000, the suit was also filed way back in the year 1985, before the learned Subordinate Judge, Attur, I am inclined to direct the learned Executing Court, Sub Judge, Attur to dispose of the Execution Petition by end of April, 2026. No costs.

27.02.2026



rkp

Neutral Citation Case : Yes

Internet: Yes

Index : Yes

To:

The Subordinate Judge, Attur, Salem District.

P.B.BALAJI, J.,

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Pre-delivery order in
CRP. No.4496 of 2025
and CMP. No.22886 of 2025

27.02.2026