



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 5397 of 2025

1. Amudha
2. Lavanya
3. Tamilselvan
4. Ishwarya

..Petitioner(s)

Vs

Saraswathi
Nayarayan (Died)

..Respondent(s)

*(Cause title accepted vide Court order dated 27.10.2025 made in
CMP.No.26246 of 2025 in CRP.SR.No.146884 of 2025)*

Prayer: The civil revision petition has been filed under Section 115 of CPC, to set aside the docket order made in E.P.No.50 of 2018 in OS No. 564 of 1999 dated 30.06.2025 passed by the Sub Court, Omalur

For Petitioner(s): Mr.A.K.Sriram, SC for
Mr.P.K.Harinath Babu

For Respondent(s): Mr.T.S.Vijayaraghavan

ORDER

This civil revision petition has been filed seeking to set aside the docket order made in E.P.No.50 of 2018 in OS No. 564 of 1999 dated 30.06.2025 passed by the Sub Court, Omalur



2. The petitioners are third parties to the suit. They obstructed to the execution, by filing an application under Section 47 of Code of Civil Procedure in R.E.A.No.185 of 2009. The executing Court after enquiry, dismissed the said application. However, when the order was challenged before this Court, this Court though had dismissed the civil revision petition at paragraph No.6 gave certain directions. Paragraph No.6 of the order in CRP.(NPD)No.1404 of 2022 dated 21.04.2022 is extracted for reference:

“6. For the reasons already stated in paragraph No.4.1 above, this Court does not intend to entertain the revision petition because the application under Section 47 CPC is not maintainable. However, having taken cognizance of certain facts as presented before the Court, this Court does not want to ignore the same as it may have a bearing in the order of delivery that the Execution Court has ordered. It would be only appropriate that the Execution Court ascertain the property which is required to be delivered and may also ascertain if it is the same as the one covered by the sale agreement. It is important that Courts should be cautious enough not to deal with rights of parties not before it. It may be that if a Court does a wrong, the party affected may have a remedy in law. That does not imply Courts should ignore its need for caution. The Execution Court should not ignore to caution itself that the property of the third party is wrongly delivered.”

3. Mr.A.K.Sriram, learned senior counsel for the petitioner would state that



without even complying with the directions issued by this Court, the executing Court without any application of mind, had proceeded to order delivery, which is under challenge in the present revision petition. He would therefore pray for the revision petition being allowed and an opportunity being given to the petitioners to ensure that there is no erroneous execution and dispossession of the petitioners from their property instead of suit property.

4. Per contra Mr.T.S.Vijayaraghavan, learned counsel appearing for the respondent would state that in respect of the suit sale agreement, it was containing an incorrect survey number, S.No.157/1, instead of S.No.152. He would however point out that the mistake was brought to the notice of the trial Court even in the plaint and the decree itself has been passed only in respect of S.No.152. He would also state that subsequently, after the order of delivery on 23.07.2025, the Court bailiff has already taken possession and delivered possession to the respondents. The certified copy of the bailiff's report is also produced. Therefore, according to the counsel for the respondent, he states that civil revision petition is infructuous since the subsequent order delivering the property to the respondents has not been challenged till date.

5. I have carefully considered the submission advanced on either side and perused the materials available on record.



6. It is no doubt true that the respondent had obtained the decree for specific performance and thereafter has put the decree to execution. In the plaint itself, the respondent has brought to the notice of this Court that, the survey number mentioned in the sale agreement should be read as S.No.152 and not as S.No.157/1. The trial court has accepted the said contention and while drafting the decree, the decree has been granted only in respect of lands of an extent of 1.1 acre in S.No.152. It is therefore contended by the learned counsel for the respondent that, there is no error committed and merely because there is no reference to the order passed by this Court in the civil revision petition, in the order of delivery or the subsequent act of possession being taken through Court and delivered to the respondent, cannot be set aside.

7. I am unable to *prima facie* agree with the said submissions. When this Court has specifically directed the exercise to be undertaken by the executing Court, as to whether the property which is rightfully to be delivered to the respondent is delivered or not, I do not find the order of delivery factoring the direction issued by this Court. However, considering the fact that today much water has flown and possession has already been delivered to the respondent, without disturbing any of the subsequent orders, the matter is remitted to the executing Court to comply with the directions passed by this Court in CRP. (NPD).No.1404 of 2022 dated 21.04.2022. The executing Court shall enquire into whether the decretal property alone has been delivered to the respondent /



decree holder and in the event of any grievance thereafter, it shall be open to the petitioners to take appropriate action against their vendor in the manner known to law, which would be in compliance of the order passed by this Court in CRP.

(NPD)No.1404 of 2022. This exercise will safeguard the interest of the revision petitioners. The said exercise shall be undertaken by the executing Court expeditiously and after hearing the counsel on either side. The enquiry shall be concluded on or before 17.04.2026. It is made clear that till the disposal of the enquiry and findings by the executing Court, the respondents shall not further alienate or encumber the property.

8. The civil revision petition is disposed of in the above terms. No costs.

23-02-2026

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

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To
The Sub Court, Omalur.



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P.B.BALAJI, J.

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