



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2026

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4901 of 2025

& CMP.No.24761 of 2025

1.Wahab Ali Khan

2.Naaz Parveen

... Petitioners

Vs.

1.A.S.Malaisamy

2.S.P.Velusamy

S.Palannisamy (Died)

S.P.Selvakumar (Died)

3.Tamilarasi

4.Anbukkarasan

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the decree and order passed by the I Additional Subordinate Court, Erode, dated 10.07.2025 in unnumbered E.A.No.____ of 2024 in E.P.No.152 of 2008.

For Petitioner : Mr.Y.Kajanavas

For Respondents : Mr.K.S.Jeyaganeshan for R1
No appearance for RR2 to 4



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ORDER

This revision petition has been filed to set aside the decree and order passed by the I Additional Subordinate Court, Erode, dated 10.07.2025 in unnumbered E.A.No.____ of 2024 in E.P.No.152 of 2008.

2.I have heard Mr.Y.Kajanavas, learned counsel for the revision petitioners and Mr.K.S.Jeyaganeshan, learned counsel for the 1st respondent.

3.The revision petitioners suffered a decree for specific performance which was filed by the 1st respondent. The 1st petitioner contested the suit, stating that the 1st respondent/plaintiff is only a tenant under him and that at no point of time, an agreement of sale was entered into or it was agreed by the 1st petitioner to sell the property under the occupation of the 1st respondent by entering into any agreement of sale.

4.However, the trial Court found the 1st respondent being entitled to the discretionary relief of specific performance. The defence taken in the suit was also considered by the trial Court, before passing the decree. The decree has admittedly become final. When the decree was put in execution,



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the petitioners have moved an application under Section 47. The 1st petitioner is the judgment debtor. The 2nd petitioner is the wife of the 1st petitioner. The 2nd petitioner is admittedly not a party to the suit or the execution petition also. I do not see how the 2nd petitioner can maintain an application under Section 47 of CPC.

5. In any event, I have gone through the order passed by the executing Court and the executing Court has rightly found that the petitioners are not entitled to question the executability of the decree which has become final. I do not see any infirmity in the findings arrived at by the learned I Additional Sub-Judge, Erode.

6. The only grievance of the learned counsel for the petitioners is that the petition was dismissed even at the unnumbered stage and therefore, a fair opportunity ought to be given to the petitioners. However, on going through the detailed order passed by the executing Court, I am able to see that all the contentions of the petitioners have been addressed by a well reasoned order. I do not see that the said order requires interference in revision.



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7.Be that as it may, the learned counsel for the petitioners also brought to my notice that there is an appeal filed against the decree for specific performance and the same is pending in A.S.CFR.No.9022 of 2025 at the condone delay stage, before the District Court, Erode and he would therefore seek for limited protection, at least till such time, the condone delay application is disposed of, so that the petitioner will have one more reasonable opportunity to challenge the decree for specific performance. In the light of the fact that an appeal has been preferred, though belatedly and the same is being contested by the 1st respondent/decreed holder, I am inclined to pass the following order:

8.As already discussed, there is no merit in the revision petition. The Civil Revision Petition is dismissed. The order passed in E.A.CFR.No.12346 of 2025 dated 10.07.2025 is confirmed. However, the proceedings in the execution petition shall be kept in abeyance for a period of five weeks. The District Court, Erode shall dispose of the above mentioned A.S.CFR.No.9022 of 2025, within a period of four weeks and in the event of the delay being condoned, the petitioner shall be at liberty to immediately move an urgent interim application seeking stay of the execution proceedings pending. However, if no interim stay is granted



within the said period of five weeks, the executing Court shall proceed with the EP. No costs. Connected Civil Miscellaneous Petition is closed.

20.01.2026

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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Note : Issue order copy on 23.01.2026.

To

- 1.The I Additional Subordinate Court, Erode.
- 2.The District Court, Erode.

P.B. BALAJI,J.
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