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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 5024 of 2025

and CMP.No.25363 of 2025

Case QR

CNR: {HCMA012490232025}

Mahamooda Begum

..Petitioner(s)

Vs

Ali Mohammed Sait (deceased)

1.Fathimabai

2. A.Mohammed Arif

3. A.Mohammed Illyas

4. E.Fasiha

5. R.Farhana

6. A.Mohammed Habeeb

7. A.Mohammed Adam

8. A.Shabir Ahmed

9. Farah Sayeed

10. Mohammed Zai

11. I.Ayisha

Abdul Subban (deceased)

Abdul Majeed (deceased)

12. Mumtaz Bi

13. Musukanbegam

14. Mohamed Muniver (minor)

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(14 and 15 the respondents rep by their mother
Mumtaj Bi., 12th respondent)
15. Shabeed Ahmed (minor)
16. Jakeer Hussain
17. Hajithabe
[12th-17th respondents/13th-20th
respondents/1st-6th and 8,9th judgment debtors]

..Respondent(s)

Prayer : This Civil Revision Petition is filed under Section 115 of CPC, praying to allow the Civil Revision Petition thereby setting aside the order dated 17.09.2025 in EA.SR.No.49191/2025 in EP.No.255/2003 on the file of Honble X Assistant City Civil Court Chennai.

For Petitioner(s): Mr.B.Vijay
for G.Mohammed Aseef

For Respondent(s): Mr.A.Kevin Sagaya Lezarus
for M/s.E.Hariharan

ORDER

This Civil Revision Petition is filed challenging the order passed by the Executing Court dismissing the application filed by the petitioner under Section 47 of CPC even without numbering.

2. It is not in dispute that the predecessors in interest of respondents 1 to

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11 namely Ali Mohammed Sait filed a suit for specific performance against the predecessor in interest of respondents 12 to 17, namely Abdul Subban and Abdul Majeed, the original plaintiff in the suit. The said suit was dismissed. Aggrieved by the same, the plaintiffs filed an appeal in A.S.No.149 of 1981 on the file of VI Additional Judge, City Civil Court, Chennai.

3. The First Appeal filed by the plaintiffs was also dismissed. Aggrieved by the concurrent findings, the plaintiffs filed the second appeal before this Court in S.A.No.249 of 1983 and the same was allowed by this Court by judgment and decree dated 20.09.1996.

4. It is the case of the petitioner that she purchased the properties subsequent to the dismissal of the suit and before filing of the First Appeal. The petitioner was also arrayed as 7th respondent in the second appeal. Since there was some error in mentioning the rank of the parties who was bound to execute the sale deed in favour of the plaintiffs as per the decree, the clarification application was filed and the earlier decree passed in second appeal was clarified and modified decree was passed on 12.09.1996. As per the decree, the vendors of the present petitioner has been directed to execute the sale deed in favour of the plaintiffs. Thereafter, the Execution Petition has been filed by the plaintiff in EP.No.341 of 1997 and the same was dismissed on some technical ground. Thereafter, another execution petition was filed in E.P.No.255 of 2003 and the petitioner filed Section 47 application in E.A.No.1060 of 2004. In the

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said Section 47 application, it was contended by the petitioner that the original decree passed in second appeal was against dead persons and therefore the same was not valid. The petitioner also disputed the power of the Court to pass modified decree. The petitioner also raised a point that one of the minor respondents in the decree was not properly represented. On all these grounds, she sought for a declaration that decree was nullity and not executable. The said Section 47 application filed by the petitioner was dismissed by order dated 03.03.2005. Aggrieved by the same, the petitioner preferred revision before this court in CRP(NPD).No.1174 of 2005. While the Civil Revision Petition was pending, the main Execution Petition filed by decree holders in E.P.No.255 of 2003 got dismissed on technical grounds. Subsequently, the dismissal of the main Execution Petition was reported before this Court in Civil Revision Petition when the same came up for hearing. Recording the same, this court dismissed CRP(NPD).No.1174 of 2005 as infructuous by order dated 17.07.2017.

5. It is seen that subsequent to the dismissal of the civil revision petition, the main E.P.No.255 of 2003, which was dismissed on technical ground was again restored to file. After restoration of main execution petition, the petitioner herein filed instant application under Section 47 of CPC in E.A.S.R.No.49191 of 2025, seeking to dismiss the execution petition on the ground that the decree was not executable. The said application was dismissed by Executing Court on the ground that second application under Section 47 of

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CPC on same grounds was not maintainable. Aggrieved by the same, the petitioner has come before this court.

6. The learned counsel appearing for the petitioner would submit that the rejection of Section 47 application filed by the petitioner without numbering the same is not sustainable in law. According to learned counsel, the Executing Court ought have numbered the execution petition and afforded full opportunity to the petitioner to putforth his case.

7. It is also submitted that the earlier Section 47 application filed by the petitioner was dismissed by the Executing Court and the revision filed by the petitioner against that order was dismissed as infructuous, in view of the dismissal of the main execution petition. In such circumstances, according to the counsel, the second application filed by the petitioner under Section 47 of CPC is maintainable.

8. The submission made by the learned counsel for the petitioner is not acceptable to this court. The petitioner already filed Section 47 application raising her objection to the decree and the same was considered on merits and dismissed. Challenging the same, she filed a revision before this Court as stated earlier and the said revision was dismissed as infructuous due to the dismissal of the main Execution Petition itself. Subsequent to the dismissal of the revision, the main execution petition was restored to the file. In that case, it

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is for the petitioner to file appropriate application seeking to recall the order passed by this Court in the above revision and to consider the same on merits. Instead of following said procedure, the petitioner ingeniously filed another application under Section 47 of CPC, raising the very same grounds. When the earlier application under Section 47 of CPC filed by the petitioner was dismissed on merits and the revision filed by the petitioner challenging the said order was also dismissed on technical grounds, the finding of the Executing Court in the earlier Section 47 application had attained finality. Therefore, the petitioner is not entitled to maintain a second application under Section 47 of CPC.

9. In view of the undisputed fact that the petitioner earlier filed Section 47 application and the same was dismissed and the revision against the said order was also dismissed by this Court, the Executing Court rightly rejected the second Section 47 application filed by the petitioner even without numbering.

10. I do not find any serious error in the impugned order passed by the Executing Court. Accordingly, this revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order

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Neutral Citation: Yes/No
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To

X Assistant City Civil Court,

Chennai.

S.SOUNTHAR, J.
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