



C.R.P.(NPD).No.5629 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.01.2026

Pronounced on: 30.01.2026

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Coram:**THE HONOURABLE Mr. JUSTICE P.B.BALAJI**C.R.P.(NPD).No.5629 of 2025

S.K.Krishnan (Deceased).

1. K.Saroja,
 2. Ravi Varma,
 3. K.Parthiban,
 4. Vinayagam,
 5. Jothilakshmi,
 All residing No.9, Pillaiyar Koil 3rd Street,
 Ekkattuthangal, Chennai -600 032. ... Petitioners/Judgment Debtors.

/versus/

M.S.Balaji,
 No.3362-A.A.F.Block,
 11th Main Road, Anna Nagar,
 Chennai – 600 040. ... Respondent

Prayer: Civil Revision Petition has been filed under Section 115 of C.P.C., to set aside the order dated 25.09.2025 in E.P.No.3975 of 2022 in O.S.No.3426 of 2009 on the file of the Hon'ble IX Assistant City Civil Court, Chennai.

For Petitioners : Mr.B.Dinesh Kumar

For Respondent : Mr.P.K.Shiva Nagesh



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ORDER

The legal representatives of the defendants, being the judgment debtors in E.P.No.3975 of 2022, are the revision petitioners.

2. Heard Mr.B.Dinesh Kumar, learned counsel for the revision petitioners and Mr.P.K.Shiva Nagesh, learned counsel appearing for the respondent/deGREE holder.

3. Mr.B.Dinesh Kumar, learned counsel for the revision petitioners, would state that they are the L.R's of one S.K.Krishnan, who was the defendant in a suit filed for recovery of money in O.S.No.3426 of 2009, before the Assistant City Civil Court, Chennai. Mr.B.Dinesh Kumar would state that though the defendant, S.K.Krishnan submitted to a decree and a joint memo of compromise was entered into between the plaintiff and the defendant on 18.06.2009 and a decree came to be passed in terms of the said joint memo of compromise on 09.07.2009, it is the categorical submission and contention of Mr.Dinesh Kumar that the decree does not even specify any amount which was due and payable by the defendant. Therefore, according to the learned counsel, the execution petition could not have been straight away laid for sale of the property belonging to the deceased judgment debtor, which property now belongs to the revision petitioners, by way of succession. The learned counsel

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would also take me through the joint memo of compromise as well as the execution petition filed by the respondent. To fortify his submissions that even in the execution petition, the decree holder has not mentioned any specific amount for which the decree has been passed, he would state that the valuable property of the petitioners cannot be sold in execution of such a decree which does not even specify the amount due and payable to the respondent/decreed holder. He would therefore pray for the order passed by the executing Court in E.P.No.3975 of 2022 being set aside.

4. Per contra, Mr.P.K.Shiva Nagesh, learned counsel for the respondent decree-holder would state that only at the insistence of the defendant and the respondent/decreed-holder agreed to enter into a compromise memo. Having entered into a compromise memo and submitted to a decree, Mr.Shiva Nagesh would contend that the L.Rs who are only legal representatives of the deceased defendant cannot have any audience before this Court and in view of the specific terms agreed to by the deceased defendant under the joint memo of compromise, Mr.Shiva Nagesh would contend that the respondent decree-holder is entitled to bring the property for sale and recover the monies due and payable to him. In this regard, he would also point out that in furtherance of the powers given to the respondent/decreed-holder under the joint memo of compromise, he has also entered into an agreement of sale with a third party, for sale of the



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property originally belonging to the defendant and now to the judgment-debtor and it would be a mockery of justice if the petitioners are now allowed to defeat the terms of compromise.

5. The learned counsel also relies on the decision of the Hon'ble Supreme Court in ***Pushpa Devi Bhagat (Dead) through LRs versus Rajinder Singh and others*** reported in ***2006 (5) SCC 566***, where the Hon'ble Supreme Court has held that as against a consent decree, no appeal is maintainable and even an independent suit cannot be filed seeking to set aside a compromise decree, in view of the bar under Rule 3A of Order 23 of C.P.C. Further, Mr.P.K.Shiva Nagesh, also relies on the decision of the Hon'ble Supreme Court with respect to the power of executing court to vary/modify the terms of decree, ***Deepa Bhargava and another vs. Mahesh Bhargava and others*** reported in ***2009 (2) SCC 294***, when it has been held that the executing court must execute the decree as it is and it cannot go beyond the decree and does not have any jurisdiction to modify the same. The learned counsel, therefore, state that there is no error in the order passed by the executing court warranting interference in the decision.

6. I have carefully considered the submissions advanced by learned counsel for the parties. I have also gone through the records, more specifically
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the joint memo of compromise entered into between the respondent decree-holder as plaintiff and Mr.S.K.Krishnam, the defendant in the suit.

7. Admittedly, the defendant is no more and his estate is no represented by the revision petitioners, his legal representatives. The joint memo of compromise assumes significance and hence, it is extracted in entirety.

**Joint memo of compromise filed by the Plaintiff
and the Defendants**

The plaintiff and the defendant in the above suit have mutually agreed to settle the matter. Pursuant to the said Settlement they have filed this Joint Memo of Compromise with the following terms and conditions.

1. Judgment and decree may be passed in the above suit as prayed for.

2. Attachment before Judgement passed in I.A.No.8689 of 2009 in O.S.No.3426 of 2009 shall continue, till the complete discharge of the Decree amount

3. In view of the defendant's old age and financial difficulties, the defendant confers on the plaintiff absolute right to sell, the suit properties, more particularly described in A and B Schedule hereunder, realize the entire sale proceeds and return the balance amount to the defendant after adjusting the decree amount due to him and other incidental charges incurred by him for the sale



of suit properties.

4. The plaintiff shall have absolute power and right to find out suitable and genuine purchasers, fix reasonable sale price and sell the suit properties. The plaintiff shall spend out of his own funds to meet the necessary expenses for the said sale of properties.

5. The plaintiff shall have the power to execute and register the sale deeds in favour of various purchaser or purchasers in respect of a portion or whole of the suit properties.

6. The plaintiff shall have the power to put the purchaser or purchasers in legal possession of the suit properties. For the said purpose he has the right to incur necessary expenses out of his funds.

7. The defendant shall cooperate with the plaintiff in discharging his duties pursuant to the terms and conditions enumerated in this Joint Memo of Compromise in respect of the sale of A and B Schedules of properties.

The terms and conditions contained in the Joint Memo of Compromise shall be final and binding on the parties to the suit.

The plaintiff and the defendant humbly pray that this Hon'ble Court may be pleased to record this Joint Memo of Compromise and pass a judgement and decree in O.S.No.3426 of 2009 in terms of the above Joint Memo of Compromise and thus render justice."



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8. Firstly, Clause 1 of the joint memo of compromise abundantly makes it clear that the defendant has virtually submitted to decree in the suit, as prayed for. Therefore, it is now not open to his L.R's to contend that no amount has been specified in the decree and therefore decree is not executable.

(ii) Secondly, at the same time, it also may not be proper on the part of the respondent/decree-holder to contend that he has been bestowed with absolute discretion and power to bring the properties belonging to the judgment-debtor for sale, in order to recover the decree amount. This is in view of Clause 2 of the joint memo of compromise which stipulates that the order of attachment before judgment passed in I.A.No.8689 of 2009 in O.S.No.3426 of 2009 shall continue, till the complete discharge of the decree amount.

(iii) Therefore, the intention of the parties was only that the decree amount should be satisfied and the power given to the respondent/decree-holder to bring the properties of the defendant to sale was only with the object of recovering the decree amount and not for any other reason. Probably, at that relevant point of time, the defendant was not in a position, because of his age and financial difficulties, to pay the decree amount and therefore, he had opted to have his properties sold at the power and discretion of the decree-holder.



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Today, admittedly, the defendant is no more. He has not given any power of attorney to the decree holder to deal with his properties as well. The legal representatives are admittedly in possession of the estate of deceased defendant, S.K.Krishnan as well. The decree-holder cannot have any grievance as long as the decree amount is settled as agreed by the defendant in the joint memo of compromise.

9. Equally, as already discussed, the revision petitioners also cannot question the wisdom of Mr.S.K.Krishnan in entering into a compromise and agreeing to the suit being decreed as prayed for.

10. Mr.Dinesh Kumar, in the course of arguments has brought to my notice that he has deposited a sum of Rs.2,00,000/- to the credit of E.P.No.3974 of 2022 and has also deposited a further sum of Rs.40,000/- in compliance with the directions of this Court. In terms of the decree, the suit having been decreed as prayed for, the revision petitioners are not entitled to go back and contest the compromise memo entered into by Mr.S.K.Krishnan, the sole defendant in O.S.No.3426 of 2009. At the same time, the filing of the execution petition by the respondent decree-holder for attachment and sale of the property cannot be prima facie found fault with in view of the terms of the compromise. However, the underlying intention of the parties was only to ensure that the suit claim was



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settled to the respondent decree-holder.

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11. In the light of the above and also in view of the fact that the petitioners are now willing to pay the decree amount to save their property, I am inclined to dispose of the revision in the following manner:

(i) The petitioners shall pay the respondent a sum of Rs.7,04,000/-, which is after adjusting the deposit of Rs.2,40,000/- already made by them pursuant to the orders of this Court. In the execution petition that has been filed, the respondent decree-holder has not even specified the amount payable to him under the decree.

(ii) In order to pass an effective order in the revision, the amount due and payable by the petitioners is calculated as follows:

Description	Amount
Amount claimed in the plaint (Principal + Interest)	Rs.2,24,000/-
Interest from May 2009 to January 2026 (189 × Rs.4,000)	Rs.7,20,000/-
Total Amount Due	Rs.9,44,000/-
Less: Deposit already made	(Rs.2,40,000/-)
Balance payable by petitioners	Rs.7,04,000/-

(iii) The petitioners shall pay the respondent a sum of Rs.7,04,000/- within a period of eight weeks from the date of receipt of a copy of this order.

Subject to such payment being made within the stipulated time, the order of



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attachment in I.A.No.8689 of 2009 in O.S.No.3426 of 2009 shall stand raised.

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(iv) The respondent shall be entitled to payment out of the amount of Rs.2,40,000/- lying in Court deposit, if the same has not already been withdrawn. Any pay-out application filed by the respondent decree-holder shall not be opposed by the petitioners. The Court shall ensure that the amount is paid out to the respondent, if it has not already been paid, expeditiously.

12. With the above observation, this Civil Revision Petition is disposed of. There shall be no order as to costs.

30.01.2026

Index :Yes.
Internet :Yes.
Neutral Citation :Yes.
Speaking Order/Non-Speaking order.
bsm

Copy to:-

1. The IX Assistant City Civil Court, Chennai.



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P.B.BALAJI, J.

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Pre-delivery order made in
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