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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 7279 of 2026
C.M.P.No.31371 of 2026

CNR: {HCMA012587632026}

Case QR

1. S.Vasukivalli
2. S.Jagadeesan

   S.Balaguru (died)

3. S. Kumaresan
4. S. Mangaleswari

   S.Ranjini (died)

5. S. Sivaprasad

   S.Janardhanan (died)

6. S. Gunasekaran
7. S. Arumugham
8. S. Rajeswari
   S.Sasivardhini (died)

9. S. Nandheeswari

   S.Lavanya (died)

..Petitioner(s)

Vs

1. Velayudham
2. Indiradevi

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, pleased to allow the Civil Revision Petition and set aside the order and decreetal order dated 31.08.2026 passed in E.A.No.5 of 2026 in E.P.No.210 of 2011 pending on the file of the learned Principal District Munsif at Alandur.

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For Petitioner(s): Mr.T.Easwara Dhas

ORDER

The Civil Revision Petition is filed challenging the order passed by the Executing Court dismissing the application filed by the petitioners seeking to set aside the ex-parte order passed against the petitioners in Execution Petition filed by the respondents.

2.The respondents herein filed a suit and obtained a decree for recovery of possession against the petitioners after removal of the super structure in the suit property. The decree was passed on 31.03.2011 in O.S.No.584 of 2004. The said decree was put into execution in E.P.No.210 of 2011 on the file of the Principal District Munsif Court, Alandur. It appears that the petitioners were set ex-parte on 21.03.2024. It is stated that the petitioner's brother Balaguru was looking after the case and he died on 19.10.2023. Therefore, the petitioners were not aware of the execution proceedings. It is also stated that Court Ameen visited the subject property on 13.02.2026. Then only the petitioners enquired about the case and found ex-parte order was passed against them as early as 21.03.2024. Immediately the petitioners filed the present application seeking to set aside the ex-parte order. However, the Executing Court dismissed the same. Aggrieved by the same, the petitioners have come before this Court.

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3.The learned counsel appearing for the petitioners would submit that thirty days limitation prescribed under Order 21 Rule 106 of the Code of Civil Procedure is not applicable to the order setting the petitioners ex-parte unless any final order is passed in the Execution Petition and hence petitioners are entitled to file an application to set aside the order setting them ex-parte.

4. It is seen from the affidavit filed by the petitioners that they acquired knowledge about the delivery order on 13.02.2026, when the Court Ameen visited the subject property. Therefore, it is clear that Executing Court already passed final order of delivery in the Execution proceedings. When final order is passed in Execution Petition, the petitioners are not entitled to challenge the earlier order setting them ex-parte. Therefore, the present application filed by the petitioners seeking to set aside the ex-parte order dated 21.03.2024 is not at all maintainable after order of delivery passed by the Executing Court. In view of the same, I am unable to accept the contention raised by the petitioners and interfere with the impugned order passed by the Executing Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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

EP

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S.SOUNTHAR, J.

EP

To:-
The Principal District Munsif,
Alandur.

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