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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-11-2026**

CORAM

**THE HON'BLE MR.JUSTICE S. SOUNTHAR**

**CRP No. 6981 of 2026 and**

**CMP No.29999 of 2026**

Case QR

*CNR: {HCMA012656752026}*

**Ponnusamy Gounder (died),**

**1.** 1.P.Devaraj, S/o. Ponnusamy Gounder,
Thottipalayam, Muthur Village,
Kangayam Taluk, Tiruppur District,

**Moorthy(died)**

2. M Leelavathy, W/o. Late Moorthy,

3. M Karthiga, D/o. Late Moorthy,

4. M Gokul, S/o. Late Moorthy,

5. P Lakshmi, W/o. Late Ponnusamy Gounder,
R2 to R5 are residing Thottipalayam,
Muthur Village, Kangayam Taluk,
Tiruppur District.

..Petitioner(s)

Vs

K.P.Ponnusamy, S/o. Palanisamy Gounder,
Periyakaradupalayam,
Muthur Village, kangayam Taluk,
Tiruppur District.

..Respondent(s)



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Prayer: Civil Revision Petition is filed under Section 115 of the Constitution of India to set aside the fair and decreetal order dated 23-09-2026 made in E.A.No.27/2017 in EA.No.274/2006 in EP.No.33/2004 in O.S.No.99/1989 pending on the file of the learned District Munsif Court, Kangayam.

For Petitioner(s): Mr. C Tamizhamudhan
for Mr. D.Gopal

**ORDER**

This Civil Revision Petition has been filed challenging the order passed by the Executing Court, allowing the application filed by the respondent/decree holder seeking amendment of the description of the property found in the main E.P.33 of 2004 as well as in the application in E.A.No.274 of 2006.

2. The respondent herein/plaintiff filed a suit in O.S.No.99 of 1989 on the file of Sub Court, Dharapuram and obtained exparte decree on 24.09.1991. Subsequently, the exparte decree was set aside and again another exparte decree came to be passed in favour of the respondent on 21.11.2002. Based on the said decree, the respondent filed E.P.No.33 of 2004 on the file of District Munsif, Kangeyam seeking execution of sale deed, pursuant to the decree passed for specific performance. In the said execution petition, sale deed was executed in favour of the respondent. Thereafter, the respondent filed E.A.No.274 of 2026



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seeking delivery of the property covered by the sale agreement. Now, the respondent filed the instant application seeking amendment of the description of the property found in the execution petition as well as the execution application.

3. It is the case of the respondent that there are certain typographical error with regard to the survey number of the suit property in the description. According to the respondent, the property has been correctly described as one situated in Survey No.48A in the plaint as well as in the first exparte decree passed on 24.09.1991. However, in the second decree passed on 21.11.2002, the survey number has been wrongly mentioned as 48, instead of 48A. It is also stated that in the schedule of property, the expression "பு.ஏ,கவள்" has been wrongly mentioned instead of பு.ஏக்கள்" and further instead of 45A1, it has been wrongly typed as 43A1. After finding the misdescription in the decree as well as the subsequent Execution Petition and the Execution Application, the respondent filed an application to amend the description of the property in the main Execution Petition as well as the Execution Application. It is also stated that a separate application has been filed under Section 152 of CPC in I.A.No.185 of 2017 in O.S.No.99 of 1989 seeking amendment of the description of the property in the decree dated 21.11.2022 and the same was allowed on 23.09.2026. Therefore, the executing Court, by passing the impugned order, allowed the amendment application, permitting the respondent to amend the



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description of the property found the in the main E.P. as well E.A. Aggrieved by the same, the petitioners/ judgment debtors have come before this court.

4. The learned counsel for the petitioners vehemently contended that the exparte decree was passed nearly 15 years back and the instant amendment application has been filed by the respondent/decree holder with a delay of more that 15 years. Therefore, according to him, the Executing Court ought not have allowed the amendment application. It is also stated by the learned counsel for the petitioner that the respondent has not taken any steps to amend the sale deed executed in his favour. Therefore, the amendment application filed by the petitioner to amend the execution petition as well as the execution application is not maintainable.

5. It is seen from the typed set of papers and the impugned order that subject matter of the sale agreement has been properly described in the suit sale agreement as well as in the plaint filed by the respondent/plaintiff. It is also seen in the first exparte decree passed on 24.09.1991, the description of the property was correctly given, as per the description found in the plaint. However, in the second exparte decree passed on 21.11.2002, due to



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typographical error, certain mistakes have crept in while giving description of the property in the decree drafted by the court.

6. It is settled law that the an act of the court shall not prejudice anybody. Therefore, the respondent shall not be allowed to suffer due to the mistake committed by the Court. When the property was properly described in the suit sale agreement as well as in the plaint, merely because there was misdescription in the decree drafted by the court, due to typographical error, the respondent cannot be deprived of fruits of the decree. When the decree dated 22.11.2002 has been amended, there cannot be any impediment for the respondent to amend the main Execution Petition as well as the Execution Application, as those amendments are only consequent to the amendment of the decree. Therefore, the Executing Court rightly exercised its discretion and allowed the amendment application. I do not find any serious error in the impugned order passed by the Executing Court.

7. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

**04-11-2026**

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

1. The District Munsif Court,
   Kangayam.



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**S.SOUNTHAR, J.**

**MST**

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