



WEB COPY

CRP No. 6031 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 6031 of 2025

AND

CMP Nos.29797 of 2025 & 7243 of 2026

M. Dhanasekaran
S/o Muthukrishnan,
D.No 548, Cuddalore Main Road, Kamarajar
Colony Post, Salem 636 014.

..Petitioner(s)

Vs

1. Mohankumar
S/o Mathanaicker,
956, Old No 6/441-B, Krishnan Puthur,
Ammamet, Salem 636 003
2. Muthuraja
S/o Mathanaicker,
956, Old No 6/441-B, Krishnan Puthur,
Ammamet, Salem 636 003
3. Vijaya
D/o. Mathanaicker,
547, Opposite to Holycross School,
K.N. Colony Post, Salem 636 014.

..Respondent(s)

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decretal order dated 29.10.2025 passed in REA No.2 of 2019 in EP No.205 of 2017 in OS No.606 of 2013 on the file of I Additional District Munsif Court, Salem.



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For Petitioner(s):

Mr.R.Marudhachalamurthy

For Respondent(s):

Mr.P.G.Thiyagu
for Mr.A.Bharani Chandar
for R1 to R3

ORDER

Challenging the fair and decretal order dated 29.10.2025 passed in REA No.2 of 2019 in EP No.205 of 2017 in OS No.606 of 2013 on the file of I Additional District Munsif Court, Salem, the petitioner / third party has preferred this revision.

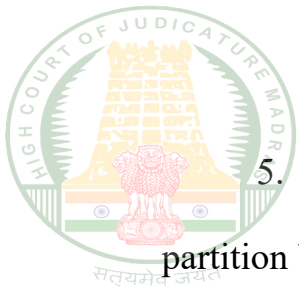
2. Heard both sides.

3. The learned counsel for the revision petitioner is a third party to the EP No.205 of 2017 as well as in the suit in OS No.606 of 2013. Based upon the sale agreement holder the revision petitioner has filed an application before the Executing Court challenging the preliminary and final decree passed in O.S.No.606 of 2013 on the ground of fraud, concealment of material facts, misrepresentation and non-joinder of necessary parties and also prayed to execute the final decree proceedings till the disposal of the suit filed by him in OS No.1280 of 2006 which was filed against the respondent herein who are the plaintiff in OS No.606 of 2013. The said application was dismissed by the trial judge by holding that the reason assigned to stay the proceedings was not justifiable and accordingly, dismissed the application. Aggrieved over the same, the present revision has been preferred by the petitioner / third party.



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4. The learned counsel submits that as registered agreement holder, he filed the suit for specific performance in OS No.1280 of 2006 against the 3rd defendants to stay the proceedings as well as to set aside the preliminary decree and final decree. Originally he filed the said suit against one Maadha Naicker who died pending proceedings, his legal heirs were impleaded as the defendants 2 to 4. Before the trial court, the revision petitioners filed the said suit for relief of specific performance, based upon the sale agreement said to be entered with the said Maadha Naicker dated 09.10.1985. The said suit was pending till date trial commenced witnesses also examined. The learned counsel submits that after entering into appearance in that suit the defendants collusively filed the present suit for partition among themselves in OS No.606 of 2013 before the District Court, Salem and collusively obtained decree. Accordingly each of them entitled to 1/3rd share in the entire suit property to total extent of 1500 sq. ft, each entitled 500 sq.ft., to execute the same now they come forward with the EP No.205/2017. Having suffice the pendency of the specific suit filed by him, the defendants colluded themselves and obtained a decree. In order to brief of the claim of the revision petitioner, he approached the Executing Court and prayed to set aside the said decree as well as stay the entire final decree proceedings. The court below failed to appreciate the same and therefore he aggrieved with the dismissed the said application, has filed the present revision.



5. The learned counsel for the respondent submits that it is a suit for partition between the sharers and there is no collusion among themselves. After demise of their father they entitled to divide the property and each of them entitled to 500 sq.ft. Partition suit was decreed and final decree also been passed to execute the same now they filed execution petition and also contended that the revision petitioners have no right to challenge the partition suit proceedings since they are only the agreement holders not having any right and title over the property.

6. Considering both the submissions, as on date the suit for specific performance filed by the revision petitioner is pending wherein all the respondents were parties. They also contested the suit, now the suit is ripe for trial, petitioner bound to prove his claim and right over the property based upon the sale agreement. It is settled proposition of law that the sale agreement would not confer any right or title to the parties who are relying the same. Therefore, the objections raised by the revision petitioners is not sustainable and the reasons assigned by the trial judge is justifiable. This petition is dismissed as no merits. However, the revision petitioner is entitled to work out all the remedy before the suit where he filed.



7. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected Civil Miscellaneous Petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MTL

To

1. The I Additional District Munsif Court, Salem.



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T.V.THAMILSELVI J.

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