



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 19.02.2026

Judgment pronounced on : 27.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.682 & 686 of 2026
& CMP.No.3634 of 2026

1.Narayanasami
2.Senthilkumar

.. Petitioners in both CRPs

Vs.

Soundarapandian

.. Respondent in both CRPs

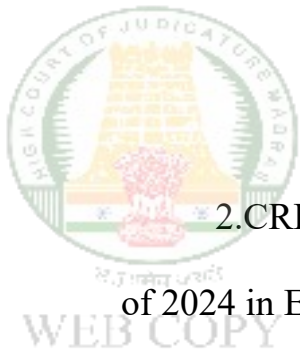
Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the decreetal order dated 12.08.2025 made in E.A.No.04 of 2025 and E.A.No.3 of 2025 in E.P.No.07 of 2020 on the file of the District Judge, Nagapattinam, Nagapattinam District.

For Petitioner : Mr.R.Muruga Bharathi in both CRPs

For Respondents : Mr.G.Veerapathiran in both CRPs

COMMON ORDER

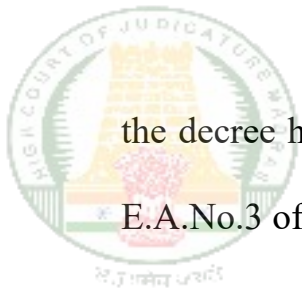
C.RP.No.682 of 2026 has been filed by the judgment debtors/defendants challenging the order in E.A.No.4 of 2025 in E.P.No.7 of 2020 on the file of the District Judge, Nagapattinam.



2.CRP.No.686 of 2026 has been filed challenging the decreetal order in E.A.No.3 of 2024 in E.P.No.7 of 2020 on the file of the District Judge, Nagapattinam.

3.I have heard Mr.R.Muruga Bharathi, learned counsel for the revision petitioners/judgment debtors and Mr.G.Veerapathiran, learned counsel for the respondent/decreed holder.

4.Mr.R.Muruga Bharathi, learned counsel appearing for the revision petitioners would state that the respondent has filed a suit for specific performance through his son, who was the power of attorney agent of the respondent. The sale consideration was fixed at Rs.12,14,400/- and an advance of Rs.5,70,000/- was paid, leaving the balance of Rs.6,44,400/- to be paid at the time of registration of the sale deed. As there was a default in compliance with the terms of the agreement, the decree holder filed O.S.No.18 of 2015 for specific performance. The suit was decreed on 04.07.2017 and in order to execute the decree, E.P.No.7 of 2020 has been filed. The petitioners took out an application under Section 47 of CPC, questioning the executability of the decree. Simultaneously, the decree holder filed E.A.No.4 of 2025 under Section 94(e) r/w 151 of CPC to decide the maintainability of the Section 47 application, as a preliminary issue. Both the applications were enquired into and the executing Court, accepting the case of



the decree holder, allowed E.A.No.4 of 2025 and rejected the Section 47 application III
E.A.No.3 of 2024.

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5.The learned counsel for the revision petitioners would state that the approach of the executing Court was improper, as the valuable rights available to the petitioner to lead evidence in the Section 47 application, have been deprived and denied totally and the order of the executing Court was without a proper opportunity to the petitioners to put forth their contentions regarding inexecutability of the decree. The learned counsel for the petitioners would further state that the suit was filed before the Court, lacking pecuniary jurisdiction and the plaintiff ought not to have filed the suit before the District Court, as the balance sale consideration was less than of Rs.10 lakhs. He would therefore state that when the question of executability of the decree goes to a jurisdictional issue, the executing Court ought to have entertained the Section 47 application and dismissed the application to decide the maintainability of the Section 47 application, as a preliminary issue. The learned counsel for the petitioners would therefore pray for the revisions being allowed.

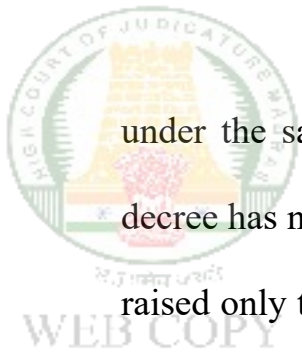
6.Per contra, Mr.G.Veerapathiran, learned counsel appearing for the respondent would state that the petitioners agitated the matter up to the Hon'ble Supreme Court and lost throughout and only in order to drag the proceedings endlessly, he has taken out the Section 47 application. In order to nip the attempt in the bud, the respondent thought it



necessary to take out an application, questioning the very maintainability of the Section 47 application, which cannot be found fault with, especially since the issues raised in the Section 47 application could very well be decided, without any requirement of oral and documentary evidence. The learned counsel for the respondent further state that the only other contention that was raised in the Section 47 application was with regard to the power of attorney giving evidence on behalf of the principal. In this regard, the learned counsel for the respondent brings to my notice that the suit itself was filed through the power of attorney and the agreement of sale itself was entered into only by the power agent on behalf of the principal, namely the son and therefore, there can be no impediment for the power agent giving evidence. The learned counsel for the respondent would therefore state that the executing Court has rightly considered the issue of maintainability of Section 47 application and ultimately, dismissed the same. He would therefore pray for dismissal of the revision petitions.

7.I have carefully considered the submissions advanced by the learned counsel for the parties.

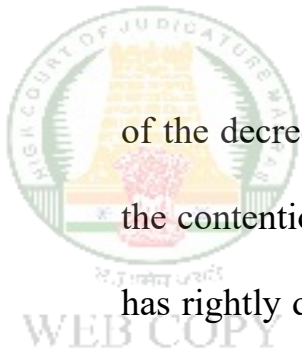
8.Admittedly, the petitioners suffered a decree in a suit for specific performance of an agreement of sale. The agreement of sale has been entered into, only by the power agent, who is none else than the father, on behalf of his son, who is the principal. Consequent to default committed by the revision petitioners in honouring the obligations



under the said agreement of sale, the suit for specific performance was filed and the decree has now admittedly become final. In the Section 47 application, the petitioner has raised only two grounds of challenge, one is with regard to the power of attorney giving evidence and the second is with regard to the territorial jurisdiction of the Court to try the suit for specific performance.

9.As regards, the power of attorney giving evidence, as already noted, when it was only the power agent who entered into an agreement of sale, he is certainly competent to give evidence in the suit, as he had first hand information about the transactions relating to the suit sale agreement and in any event, this issue does not go to the root of the matter, which necessitates the Court to invoke Section 47 of CPC, which pertains only to execution, discharge or satisfaction of the decree. The executing Court has also noticed the conduct of the petitioners that they have been attempting to delay the execution some way or the other.

10.Further, with regard to the other question of jurisdiction, the respondent has rightly valued the suit based on the sale consideration reflected in the sale agreement and the said valuation and filing of the suit before the District Court cannot be faulted. It is outrageous on the part of the petitioners to contend that the suit has to be valued only for the balance sale consideration and not the entire sale consideration. Such a plea is clearly taken to some how or the other protract the execution petition and delay the fruits



of the decree to be enjoyed by the decree holder. Thus, I do not see any merit in any of the contentions that have been raised in the Section 47 application. The executing Court has rightly discussed these aspects at great length and come to the conclusion that there is no impediment for the Court to decide the maintainability of the Section 47 application and proceeded to rightly hold that the Section 47 application was not maintainable. In the light of the above, I do not see any merit, warranting interference in the revision petitions.

11. In fine, the Civil Revision Petitions are dismissed. Considering the Execution Petition is of the year 2020, the learned Executing Court shall dispose of the Execution Petition, by 30.04.2026. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

27.02.2026

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

The District Judge, Nagapattinam.



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P.B.BALAJI.J,

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Pre-delivery order made in
CRP.Nos.682 & 686 of 2026
& CMP.No.3634 of 2026

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