



A.Nos.6406 & 6408 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

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THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A Nos. 6406 & 6408 of 2025

in

E.P. No. 24 of 2025

1. K.Shivakumar and another
S/o.Karthikeyan,
No.33, Old No.16/5, 1st Floor,
Akbarabad 1st Street, Kodambakkam,
Chennai-600 024.
2. Mrs.Meena Shivakumar
W/o.K.Shivakumar, No.33, Old No.16/5, 1st
Floor, Akbarabad 1st Street, Kodambakkam,
Chennai-600 024.

..Applicant(s)

Vs

1. Mrs.Seetharajakumar and 5 others
W/O.LATE M.V.KRISHNA RAO
Hindu aged 64 years, No.33, Old No.16/5, 2nd
Floor, Akbarabad 1st Street, Kodambakkam,
Chennai-600 024.
2. M.B.V.Sathya Sai Prasad
S/o.Late M.V.Krishna Rao, Hindu aged 44 years,
No.33, Old No.16/5, 2nd Floor, Akbarabad 1st
Street, Kodambakkam, Chennai-600 024.
3. M.Suriyanarayanamurthy
S/o.Late M.V.Krishna Rao, Hindu aged 42 years,
No.58, Woodlands, Dr.16, 09-18, Singapore-737
897.
4. M.Bagya Suryalakshmi



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D/o.Late M.V.Krishna Rao, Hindu aged 40 years,
No.33, Old No.16/5, 2nd Floor, Akbarabad 1st
Street, Kodambakkam, Chennai-600 024.

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5. M.B.L.Raghaventhra Swamy
S/o.Late M.V.Krishna Rao, Hindu aged 38 years,
No.3637, Riverside DR,Mason OH 45040-2630,
U.S.A. (Rep. his Power of Attorney
Mrs.Seetharajakumari the 2nd Decree Holder)

6. Mrs.Uma Mageswari
D/o.Late M.V.Krishna Rao, Hindu aged 36 years,
No.33, Old No.16/5, 2nd Floor, Akbarabad 1st
Street, Kodambakkam, Chennai-600 024.

..Respondent(s)

PRAYER IN A.NO.6406 OF 2025:To set aside the order dated 10/12/2025 passed
in A.No.2985 of 2025 in E.P.No.24 of 2025 in C.S.No.925 of 2010.

PRAYER IN A.NO.6408 OF 2025:To stay the operation of and all further
proceedings in E.P.No.24 of 2025 in C.S.No.925 of 2010 on the file of this court
pending disposal of the above application.

For Applicant(s): M/S.V.S. Ravichandran
R.Meenakshi
L.Sonia Gandhi

For Respondent(s): Mr.N.Srinivasalu

COMMON ORDER

Application in A.No.6406 of 2025 has been filed by the applicants / judgment
debtors to set aside the order dated 10.12.2025 passed by the learned Master in
2/7

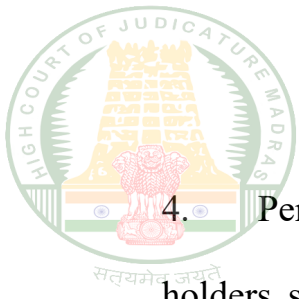


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A.No.2985 of 2025 in E.P.No.24 of 2025, whereby the application filed by the judgment debtors under Section 47 CPC to dismiss the execution petition was dismissed and A.No. 6408 of 2025 has been filed to stay the operation of and all further proceedings in E.P.No.24 of 2025 in C.S.No.925 of 2010 on the file of this court.

2. The learned counsel appearing for the applicants submitted that the decree dated 30.10.2024 passed in C.S.No.925 of 2010 is a nullity. It is contended that the original plaintiff, M.V.Krishna Rao, died on 21.12.2010; that the time to bring the legal representatives on record expired on 21.03.2011; that the time to set aside abatement expired on 20.05.2011; and that the application in A.No.5709 of 2011 to bring the legal representatives on record was filed only thereafter. Therefore, according to the applicants, the suit had already abated and the subsequent decree is non est in law.

3. The learned counsel for the applicants also relied upon the decision of the Hon'ble Supreme Court in Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman, to contend that a decree which is a nullity can be questioned even in execution proceedings.



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4. Per contra, the learned counsel appearing for the respondents / decree holders submitted that the very same objections were raised before the learned Master and were rightly rejected. It is submitted that the legal representatives of the deceased plaintiff were brought on record by order dated 19.07.2013 in A.No.5709 of 2011; that the suit thereafter proceeded to full-fledged trial; that the applicants participated in the suit proceedings; and that a contested decree was passed on 30.10.2024. It is further submitted that there is no order of stay in the appeal said to have been filed by the applicants.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. The decree dated 30.10.2024 passed in C.S.No.925 of 2010 declares the sale deed bearing Document No.976 of 2010 on the file of the Sub Registrar Office, Kodambakkam, executed in favour of defendants 1 and 2, as null and void and not binding on the plaintiffs. The decree also directs defendants 1 and 2 to deliver vacant possession of the portion under their occupation and to pay damages for use and occupation.



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7. The records show that plaintiffs 2 to 7 were brought on record as the legal representatives of deceased M.V.Krishna Rao pursuant to the order dated 19.07.2013 passed in A.No.5709 of 2011. Thereafter, the suit proceeded further, issues were framed, evidence was let in, and the suit was decreed after contest on 30.10.2024.

8. The present objection of the applicants is essentially that the legal representatives were brought on record belatedly and without a proper application to set aside abatement. This Court is unable to accept the said contention at the stage of execution. The order bringing the legal representatives on record was passed long prior to the decree. The applicants participated in the subsequent proceedings and contested the suit on merits. They cannot now, in execution proceedings, indirectly challenge the correctness of the earlier order passed in A.No.5709 of 2011. Once the bring on record is ordered, it shall be construed that delay is condoned and abatement is set aside.

9. In the present case, the decree was passed by a competent Court after full-fledged trial. The legal representatives were already on record when the decree was passed. Therefore, it cannot be said that the decree was passed against or in favour



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of a dead person without legal representatives being on record.

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10. The learned Master has considered the objections raised by the applicants and has dismissed A.No.2985 of 2025 by order dated 10.12.2025. This Court does not find any illegality or perversity in the said order warranting interference.

11. Accordingly, A.No.6406 of 2025 is dismissed. In view of the order passed in A.No. 6406 of 2025, the application in A.No. 6408 of 2025 is closed. No costs.

08-06-2026

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

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DR.A.D.MARIA CLETE, J.

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in
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