

2. The learned counsel for the petitioner would contend as follows. The 1st plaintiff is the husband of the 2nd petitioner. The main suit was filed for a relief of specific performance of contract originally filed by the 1st respondent being the plaintiff. The suit was filed to direct the petitioners to execute and register sale deed in favour of the 1st respondent on the basis of the sale agreement dated 21.04.2006. The suit was contested by the petitioners. It was contended that the entire consideration was not given by the 1st respondent and he did not act as per the terms and conditions of the sale agreement. The land acquisition proceedings pleaded by the 1st respondent was denied by the 1st respondent. The trial court while passing decree did not whisper anything about the 28 cents and portion of the building to an extent of 420 sq.ft., in the ground floor and first floor. Hence, there is an error in the decree and the same cannot be executed without deciding about 0.28 cents. The 2nd and 3rd respondent cannot take the property in the guise of acquisition proceedings. Hence, that the petition be allowed.

3. The learned counsel for the respondent/decree holder would contend as follows. The suit was a contested one and therefore, having not obtained a favourable order, the petitioners cannot be permitted to file the present petition. The petition is filed only to drag on the proceedings and they have not preferred any appeal against the judgment and decree. The award of the acquisition officer was filed as Ex.A14 and therefore, there is no irregularity in the decree. The petitioners have already filed

the draft sale deed and knowing about the same, the present petition is filed to drag on the proceedings. Hence, that the petition be dismissed.

4. Upon hearing both sides and having perused the materials on record, this court finds as follows. The present petition has been filed by the petitioners/defendants stating that the decree is not clear and therefore not executable. Both the parties would admit that the decree in the main suit was passed by this court after full trial and with the participation of the petitioners and the respondents herein. While so, it appears that all the grounds now raised before this court has been raised by the petitioners even before the trial court.

5. At this juncture, this court deems it fit to take note of the decision reported in M/S. Brakewel Automotive Components ... vs P.R. Selvam Alagappan reported in AIR 2017 SUPREME COURT 1577. In the said case, the scope of a challenge under s.47 of the Civil Procedure Code, 1908 arose for consideration and in the said case, it was observed as follows.

“19. It is no longer res integra that an Executing Court can neither travel behind the decree nor sit in appeal over the same or pass any order jeopardizing the rights of the parties thereunder. It is only in the limited cases where the decree is by a court lacking inherent jurisdiction or is a nullity that the same is rendered non est and is thus inexecutable. An erroneous decree cannot be equaled with one which is a nullity. There are no intervening developments as well as to render the decree inexecutable.

20. As it is, Section 47 of the Code mandates determination by an executing court, questions arising between the parties or their representatives relating to the execution, discharge or satisfaction of the decree and does

not contemplate any adjudication beyond the same. A decree of court of law being sacrosanct in nature, the execution thereof ought not to be thwarted on mere asking and on untenable and purported grounds having no bearing on the validity or the executability thereof.

21. Judicial precedents to the effect that the purview of scrutiny under Section 47 of the Code qua a decree is limited to objections to its executability on the ground of jurisdictional infirmity or voidness are plethoric . This Court, amongst others in *Vasudev Dhanjibhai Modi vs. Rajabhai Abdul Rehman and others* 1971 (1) SCR 66 in essence enunciated that only a decree which is a nullity can be the subject matter of objection under Section 47 of the Code and not one which is erroneous either in law or on facts. The following extract from this decision seems apt:

“A Court executing a decree cannot go behind the decree between the parties or their representatives; it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties.

When a decree which is a nullity, for instance, where it is passed without bringing the legal representatives on the record of a person who was dead at the date of the decree, or against a ruling prince without a certificate, is sought to be executed an objection in that behalf may be raised in a proceeding for execution. Again, when the decree is made by a Court which has no inherent jurisdiction to make it, objection as to its validity may be raised in an execution proceeding if the objection appears on the face of the record: where the objection as to the jurisdiction of the Court to pass the decree does not appear on the face of the record and requires examination of the questions raised and decided at the trial or which could have been but have not been raised, the executing Court will have no jurisdiction to entertain an objection as to the validity of the decree even on the ground of absence of jurisdiction.”

22. Though this view has echoed time out of number in similar pronouncements of this Court, in *Dhurandhar Prasad Singh vs. Jai Prakash University and others*, AIR 2001 SC 2552, while dwelling on the scope of Section 47 of the Code, it was ruled that the powers of the court thereunder are quite different and much narrower than those in

appeal/revision or review. It was reiterated that the exercise of power under Section 47 of the Code is microscopic and lies in a very narrow inspection hole and an executing court can allow objection to the executability of the decree if it is found that the same is void ab initio and is a nullity, apart from the ground that it is not capable of execution under the law, either because the same was passed in ignorance of such provision of law or the law was promulgated making a decree inexecutable after its passing. None of the above eventualities as recognised in law for rendering a decree inexecutable, exists in the case in hand. For obvious reasons, we do not wish to burden this adjudication by multiplying the decisions favouring the same view.”

6. A perusal of the above observation would show that the scope of s.47 is very limited and therefore, the objection can be considered only if the decree is to be considered void ab initio or a nullity. Apart from this when it is found that the decree is not capable of being executed. In the present case, the objection raised does not fall under any of the above categories. The contention of the learned counsel for the petitioners/defendants is that the decree passed is erroneous and without considering the contentions of the petitioners. If the decree is erroneous, it is for the petitioners to challenge the decree in an appropriate forum. Suffice it to state that the grounds raised by the petitioners cannot be considered in an application under s.47 of the Civil Procedure Code, 1908 and it is well settled that the executing court cannot go beyond the decree.

7. For the foregoing reasons, this court finds that the petition cannot be entertained and is liable to be dismissed.

8. In result, this petition is dismissed without costs.

//This order has been directly dictated by me to the Stenographer, typed by her in the computer, corrected and pronounced by me in the open Court on this the Wednesday the 19th day of November 2025//

Principal District Judge,
Principal District Court,
Kancheepuram.

Exhibits and Witnesses on both side: NIL.

Principal District Judge,
Principal District Court,
Kancheepuram.

Draft/Fair Order
E.A.No.1/2023 in
E.P.66/2016 in
O.S. No.63/2010
D.D. 19.11.2025
Principal District Court ,
Kancheepuram.

