

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI**PRESENT:** Thiru. M.P. Ramkishore, B.E., B.L., Hons'

District Munsif, Vadipatti.

Dated this the 28th day of January 2026**E.A. No.2/2025****in****E.P. No.9 / 2024****in****O.S. No.220 / 2010**

1. Pandiyammal,
Sangumalai

.... Petitioner / Respondent (JD) / Defendant***//Versus//***

1. Ravishankar (Died),
S/o. Baskaran
2. Seetha,
W/o. Late. Ravishankar

.... Respondents / Petitioners(DH)/Plaintiffs

This petition was filed before this Court on 15.07.2025 and coming before me for final hearing on 28.01.2026 and Advocate Thiru. N. Vellainayagam appeared for the Petitioner / Respondent (JD) /Defendant. Advocate Thiru. A.Bo. Prabhakar appeared for Respondents / Petitioners (DH) / Plaintiffs. Upon hearing the arguments advanced and on perusing the available material records, today this Court has delivered the following....

ORDER

The petitioner filed this application under order 47 rule 1 to allow the claim petition and to dismiss the main EP. No.9 of 2024.

1. **Petitioners case in brief :**

i. The petitioner was the judgment debtor in the main E.P.. The main E.P. was filed to execute the decree passed in O.S. No.220 / 2010. The petitioner's main contention was that, previously a main suit in O.S. No.734 of 2004 filed by the respondent/D.H. was disposed by this Hon'ble Court as there was no sufficient documents evidenced to prove the title of the suit property by the respondents / decree holder. The aggrieved respondents filed an appeal before the Hon'ble 1st Additional Sub Court in A.S. No.104 of 2007, in that decree was passed in favour of the respondent to restore the suit in O.S. No.734 of 2004. Later it was transferred to this Court and renumbered as O.S. No.220 of 2010. Even thereafter the decree was passed without any title documents but only with the aid of revenue documents and the documents marked in this main suit were dated after filing of the suit in O.S. No.220 of 2010.

ii. Further the petitioner filed Ex.B.1 and 2 sale deeds dated 29.05.1984 and 22.06.1960 to show the right of the petitioner in S.No.152/3 and the extent of 2 1/2 cents with four boundaries to east and west 36 ft. north south 33 ft. But in the suit property the dimensions were not mentioned. As the the respondents grandfather Baskaran @ Paramandi disturbed the possession of the petitioner, she filed a suit in O.S. No.164 of 1994 and obtained decree in favour of the petitioner. Though it was known to the respondent / decree holder she filed this main EP to grab the property.

iii. In the main suit the respondent / D.H. had filed 6 documents. but those documents were not title documents but only revenue documents that were obtained after filing of the main suit. Those documents cannot be considered to decided the title.

iv. In the main suit, to prove the title of this petitioner / J.D., had filed a 1984 sale deed in favor of this petitioner and a 1960 sale deed in favor of the petitioner's vendor to prove that the old survey number of the suit property was 152/3. In those deeds the dimension of

the suit property was also mentioned. But the respondent / D.H. had not mentioned the dimensions of the suit property. Also the petitioner / J.D. had obtained a decree for declaration of title and injunction for the suit property against the respondent's father in O.S. No. 164/1994. Even then the respondent / D.H. had obtained revenue records fraudulently in his name and filed this E.P. to grab the property.

v. The petitioner / J.D. had already obtained adangal for the property in old survey no. 152/3pa, new survey no. 195/12. But this respondent had obtained a revenue order dated 19.02.2005 by misrepresenting as during U.D.R. the old survey no.152/7 was wrongly mentioned as survey no.195/12. The above revenue order was not valid. At present the neighboring land owner M/s. Maharani, had issued notice to this petitioner for surveying her property in survey no. 195/15, even the above person had filed a suit in O.S. No. 32/2025 by mentioning this petitioner as the owner of the suit property. The petitioner had also filed the encumbrance certificate to prove there was no encumbrance in the property after the purchase made by her in 1984.

vi. The respondent / D.H. had using his high position in police department had falsely obtained revenue order to change the patta for the suit property in his name by misrepresenting the survey number of the suit property was originally 152/3pa, then it was changed to 152/7, then during U.D.R. it was changed as 195/12. But the respondent did not file any revenue documents in his name. The legal heirs of the deceased 1st respondent were not added as parties to the main E.P. Hence the main E.P. pending for delivery is not maintainable and liable to be dismissed.

2. Respondent / D.H.'s counter in brief :

i. The respondent denied all the petition averments in the counter and stated that the issues raised by the petitioner were already decided in the main suit itself. The documents mentioned in the petition were all filed in the main suit as evidence and they were already

considered to pass the decree in the main suit. The decree passed in the main suit was challenged by the petitioner by appeal in A.S. No. 84/2011 but the appeal was dismissed. thereafter the petitioner did not challenge the decree and it become final. Thus the petitioner cannot seek this court to go behind the decree under the guise of this claim petition also the 2nd respondent being the wife of the deceased 1st respondent, was very much entitled to proceed the main E.P. on behalf of all the heirs. Hence the petitioner had filed this petition without any merits and only to drag on the delivery proceeding in the main E.P.

3. The petitioner had filed 14 documents with this petition. The respondent had not filed any documents in this proceeding.

4. **Point for determination:** whether this petition can be allowed or not?

i. Heard, records perused. The main EP was pending for JD side enquir, at that stage this petition was filed.

ii. The petitioner / J.D. had filed this petition under section 47 of C.P.C. against the main E.P. petition that was pending for delivery of the property. The main contentions of the petitioner was that, the petition property belong to the petitioner / J.D. by sale. The respondent / D.H. had falsely obtained patta for the petition property in his name and he also obtained this decree without any title documents. The petitioner had filed all the documents to prove her title in this proceeding hence this claim petition shall be allowed by dismissing the main E.P.

iii. On the other hand the respondent / D.H.'s contention was that, all the issues raised by the petitioner were already decided in the main suit. The petitioner had preferred an appeal but it was dismissed. Thereby the decree had become final and accordingly this E.P. was filed to take delivery of the property. In such circumstance instead of challenging the decree, the petitioner / J.D. had filed this petition to drag on the main E.P. proceeding.

iv. In this regard this court relies upon the judgment of ***our Hon'ble Apex Court in PERIYAMMAL (DEAD) THROUGH LRS & ORS v. V. RAJAMANI & ANR. ETC. (2025 INSC 329)***, here it was decided as;

“62. A harmonious reading of Section 47 with Order XXI Rule 101 implies that questions relating to right, title or interest in a decretal property must be related to the execution, discharge or satisfaction of the decree. The import of such a reading of the provisions is that only matters arising subsequent to the passing of the decree can be determined by an executing court under Section 47 and Order XXI Rule 101. Such reasoning is reinforced by the decisions of this Court in C.F. Angadi v. Y.S. Hirannayya reported in (1972) 1 SCC 191 and Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman reported in (1970) 1 SCC 670, wherein it has been held that while determining a question under Section 47, an executing court cannot go behind the decree and question the correctness of the same.

63. What flows from the position of law, as afore stated, is that the issues that ought to have been raised by the parties during the adjudication of the original suit cannot be determined by the executing court as such adjudication may undermine the decree itself. This Court in Rahul S. Shah v. Jinendra Kumar Gandhi reported in (2021) 6 SCC 418 has held that the benefit of Section 47 cannot be availed to conduct a retrial causing failure of realisation of fruits of the decree.”

Thus our Hon'ble Apex court had decided as the matters arising subsequent to the decree can only be decided under section 47 of C.P.C. but the issues decided in the main suit cannot be revisited as it will amount to retrial by the executing court.

v. In the case in hand on appreciating the entire materials placed before this court, it is clear that the main suit was filed by the respondents / D.H. against the petitioner / J.D. herein for declaration of title and for recovery of possession. The suit was decreed against the petitioner herein. The judgment passed in the main suit was filed as 14th document by the

petitioner. As rightly pointed out by the respondent / D.H. all the title deeds relied upon by the petitioner herein to claim title over the suit property were already exhibited in trial. On comparison of the documents filed in this petition with the judgment in the main suit, this court can find that, the first 6 documents mentioned in this petition as title documents were already exhibited in the main suit as Ex.B.1 to 6. Thereby it is clear that the petitioner / J.D. is only disputing the title of the suit property that was already decided in the main suit, that too with the aid of documents that were already exhibited in trial.

vi. From the above discussion, this court can clearly conclude that the petitioner / J.D. is only raising the same issues in this petition that were already decided in the main suit. Hence in the light of above referred judgment of our Hon'ble Apex Court, this court being executing court cannot revisit the petitioners contention regarding title of the property as it would only amount as going behind the decree.

vii. Further as the petitioner contended that the 2nd respondent was alone **conduction** the E.P. proceeding, instead of impleading all the heirs of the deceased 1st respondent / decree holder, the respondent had contended that the 2nd respondent being representative of the estate of the 1st respondent, she was entitled to proceed with main E.P. In this regard ***our Hon'ble Apex Court in VARADARAJAN v. KANAKAVALLI & ORS (CIVIL APPEAL NO. 5673 OF 2009)***, had decided as;

“9. The legal representatives are impleaded for the purpose of a suit alone as held by this Court in Daya Ram & Ors. v. Shyam Sundari & Ors. wherein it was held that impleaded legal representatives sufficiently represent the estate of the deceased and the decision obtained with them on record will bind not merely those impleaded but the entire estate, including those not brought on record. This Court approved the judgment of the Madras High Court in Kadir v. Muthukrishna Ayyar 4 .”

According to the above judgment, any legal representatives of the deceased can represent the deceased in suit proceeding on behalf of all the heirs of the deceased. Hence the petitioners contention that all the legal heirs of the deceased decree holder was not brought on record in the main E.P. did not hold good.

vii. From the above discussions, this court can clearly conclude that this petition was filed without any merit, as the petitioner did not brought out any valid contentions under section 47 of C.P.C. and hence this petition cannot be allowed.

5. **In the result**, this petition is dismissed.

Directly dictated to the Stenographer directly typed in computer and computerized error checked and pronounced in the open court on the 28th day of January 2026.

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1.Petitioner side witness : Nil

2.Petitioner side documents:

1.	Sale deed dated 29.05.1984
2.	Sale deed dated 09.03.1964
3.	Judgment in 164 of 1994 dated 14.08.1995
4.	Adangal
5.	Petition to Jamabandhi Officer
6.	House tax receipts
7.	Encumbrance Certificate
8.	Memorandum of Revenue Divisional Officer dated 05.06.2001
9.	House tax receipt
10.	Plaint
11.	Notice dated 19.01.2012

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12.	Judgment in AS. No.104 of 2007 dated 30.09.2009
13.	Decree in 104 of 2007 dated 30.09.2009
14.	Judgement in Os.No.220 of 2010 dated 29.03.2011

3.Respondents side witness and documents: Nil

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Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT,
Vadipatti.

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in

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OS. No.220 / 2010

Fair Order / ~~Draft Order~~

Dated: 28.01.2026