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CRP No. 1066 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1066 of 2026 and CMP No.5654 of 2026

Subramaniyam (Died),

1.Murugan

Res. at Vaiyavoor Villlage and Post,
Mathuranthakam Taluk, Chengalpet
District.

2. Prakash

Res. at Vaiyavoor Village and Post,
Mathuranthakam Taluk, Kancheepuram
District, Now Chengalpet District.

3. Sankar

Res. at Vaiyavoor Village and Post,
Mathuranthakam Taluk, Kancheepuram
District, Now Chengalpet District.

Petitioner(s)

Vs

Mohammed Haniffa alias Haniffa Rawuthar
(Died)

1. M. Farithabegam

No.7/1, Devarajanar Streert, Vedachalam
Nagar, Chengalpet Town And Taluk And
District.

2.L. Mahaboobanisha

Res. at No.7/1, Devarajanar Street,
Vedachalam Nagar, Chengalpet Town and
Taluk and District.



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3.M. Sharbudeen

Res. at No.7/1, Devarajanar Street,
Vedachalam Nagar, Chengalpet Town and
Taluk and District.

4.M. Sahabudeen

Res. at No.7/1, Devarajanar Street,
Vedachalam Nagar, Chengalpet Town and
Taluk and District.

5.S. Jaithun

Res. at No.7/1, Devarajanar Street,
Vedachalam Nagar, Chengalpet Town and
Taluk and District.

Respondent(s)

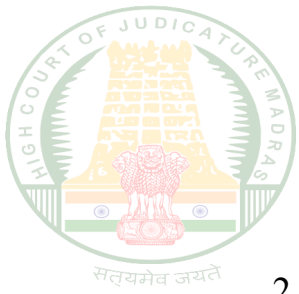
Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the order dated 19.02.2026 passed in E.A.No.7 of 2024 in E.P.No.39 of 2019 by the District Munsif at Mathuranthakam and allow the objection.

For Petitioner(s): Mr.V.Vijayakumar

For Respondent(s): Mr.K.Govi Ganesan For R1 To R5

ORDER

The revision petitioners/judgment debtors filed an application in E.A.No.7 of 2024 under Section 47 of Code of Civil Procedure to dismiss the Execution Petition in EP No.39 of 2019 on the ground that the decree is not executable and obtained by playing fraud. The said application was dismissed on hearing both sides. Aggrieved over the same, the judgment debtors have preferred the present revision.



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2. Learned counsel for the revision petitioners/judgment debtors submits that the boundary description found in the plaint schedule along with survey number, as such, is not in existence and the same was narrated by the Advocate Commissioner in his report, but, without considering the same, the Executing Court ordered for delivery and also erroneously held that the decree is an executable one. Therefore, the revision petitioners/judgments debtors pray to set aside the findings of the executing Court by relying the Report of the Advocate Commissioner.

3. Learend counsel for the respondents submits that during enquiry before the executing Court, the judgment debtors have no objection to take the property as per the boundaries. Therefore, the executing Court has rightly dismissed the application which requires no interference.

4. I have considered the submissions on both sides and perused the materials available on record.

5. The plaintiff filed a suit for declaration and recovery of possession of “B” schedule property as described in the plaint schedule for a total extent of 8 cents with



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four boundaries in S.No.196/5A. According to the plaint averments, the defendants constructed house in the “B” schedule property. Therefore, the plaintiff seeks recovery of possession.

6. In the suit, the defendants remained ex parte and an ex parte decree was passed. Based on the decree, the plaintiff has filed an application to execute the decree. At this stage, the defendants have filed application under Section 47 of Code of Civil Procedure stating that the decree cannot be executed as there is discrepancy found in the Survey Number. To support his argument, learned counsel relied on the Commissioner’s Report filed in IA No.579 of 2013 in the original suit and on perusal of the records, it reveals that the Advocate Commissioner attempted to measure the property with the help of the surveyor, but, the Surveyor expressed that no Survey No.196/5A is in existence and no sub division has also been effected in Survey NO.196. But, at the time of execution of the Commissioner’s warrant, the Judgment debtors raised objection to measure the property as per the said Survey Number. Therefore, the Commissioner has submitted the Report stating that Survey No.196/5A to an extent of 8 cents cannot be measured as there is no sub division.

7. Without considering the Report, the trial court dismissed the application



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filed by the judgment debtors where they plead that the decree is an inexecutable one.

As per the Surveyor's submission, there is no such sub division 196/5A, but as per the plaint schedule, the suit property is denoted as 196/5A.

8. Learned counsel for the Judgement Debtors state that they were in enjoyment of their own property nearly about 5 decades and their property is shown as western boundary to the property purchased by the plaintiff. Therefore, they have no objection to measure the property as per the boundaries mentioned in the document.

9. As on date with regard to Suit Survey Number 196/5A, there is no survey record. However, boundaries are clearly mentioned in the suit schedule. Therefore, the order passed by the trial Judge is set aside and E.A.No.7 of 2024 is restored to file.

10. Liberty is granted to both the parties to approach the Court for appointment of an Advocate Commissioner to measure the property with the help of boundaries as found in the Sale deed of the plaintiff as well as the documents relied on by the defendants. Thereafter, the Executing Court shall proceed with the matter.

11. The Advocate Commissioner's expenses is to be born by both the parties.



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12. With the above observation, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order

To

The District Munsif Court, Mathuranthakam

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