



C.R.P. No. 760 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2026

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P. No. 760 of 2025

&

C.M.P. No. 4347 of 2025

P. Karuppusami

..Petitioner

Vs.

Tamil Nadu Grama Bank,
rep.by its Branch Manager,
Komaralingam Branch,
Tiruppur District.

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 02.09.2024 passed in I.A. No. 1 of 2024 in O.S. No. 175 of 2020 by the Subordinate Court, Udumalpet.

For Petitioner :: Mr.N. Umapathi

For Respondent :: Ms.Bhargavi Sundar Rajan

O R D E R

This civil revision petition has been filed challenging the impugned order dated 02.09.2024 passed by the Sub Court, Udumalpet in



C.R.P. No. 760 of 2025

I.A. No. 1 of 2024 in O.S. No. 175 of 2020.

WEB COPY

2. By the aforesaid order, in the application filed by the respondent/defendant, an Advocate Commissioner has been appointed to remove the belongings of the respondent/defendant, which include a strong room.

3. The suit in O.S.No. 175 of 2020 was filed seeking for fixation of fair rent and payment of arrears of rent. The petitioner herein is the plaintiff and the respondent, which is a Bank, is the defendant in the suit. The respondent/defendant have already filed their written statement in the suit denying the contentions of the petitioner/plaintiff. During the pendency of the suit, the respondent/defendant claim that they have vacated the suit schedule premises in the year 2021. Having vacated the premises, they wanted to take back their materials lying in the suit schedule premises. Hence, the respondent/defendant filed I.A. No. 1 of 2024 seeking for appointment of an Advocate Commissioner to remove their articles from the suit schedule premises which include a strong room.

4. A counter was also filed by the petitioner/plaintiff in I.A. No. 1 of 2024 objecting to the prayer sought by the



C.R.P. No. 760 of 2025

respondent/defendant. The main bone of contention of the petitioner/plaintiff is that if the application is allowed, the superstructure belonging to the petitioner/plaintiff will get damaged causing heavy loss to the petitioner/plaintiff. It is also his contention that in a suit filed by him, the respondent/defendant cannot seek for appointment of an Advocate Commissioner.

5. By the impugned order dated 02.09.2024 passed in I.A. No.1 of 2024, while appointing an Advocate Commissioner as prayed for by the respondent/defendant, the Trial Court rejected the contention of the petitioner/plaintiff by observing that the Advocate Commissioner is appointed to hand over the articles belonging to the respondent/defendant, which include a strong room without damaging the superstructure owned by the petitioner/plaintiff and therefore, the interest of the petitioner/plaintiff has been adequately protected. However, aggrieved by the impugned order, the petitioner/plaintiff has filed this civil revision petition.

6. Learned counsel for the petitioner drew the attention of this Court to the judgment of the Honourable Supreme Court in the case of ***Padam Sen and Another V. State of Uttar Pradesh*** reported in ***1960 SCC***



C.R.P. No. 760 of 2025

OnLine SC 77 and would submit that it is well-recognised that the inherent

power under Section 151 CPC is not to be exercised in a manner which will be contrary to or different from the procedure expressly provided in the Code of Civil Procedure. He would submit that in the aforesaid decision, the Honourable Apex Court has held that the power of a Civil Court to issue a commission is limited by the provisions of Section 75 and Order XXVI of the Code of Civil Procedure. Therefore, he would submit that the Trial Court cannot appoint an Advocate Commissioner going beyond the scope of the power under Section 75 and Order XXVI of the Code of Civil Procedure to remove the materials belonging to the respondent/defendant, which includes a strong room and hand over custody of the same to the respondent/defendant.

7. On the other hand, learned counsel for the respondent/defendant would reiterate the contents of the impugned order and would submit that there is no infirmity in the impugned order, as admittedly, the materials in the suit schedule premises belong to the respondent/defendant. She would also submit that the interest of the petitioner/plaintiff has been adequately protected under the impugned order



C.R.P. No. 760 of 2025

as it has been made clear that the Advocate Commissioner shall remove the materials belonging to the respondent/defendant and hand over custody of the same without causing damage to the superstructure belonging to the petitioner/plaintiff. She would also submit that the respondent/defendant have also vacated the suit schedule premises and therefore, they are entitled to take back their materials from the premises.

8. A Court of Law has to render justice to the parties, who approach the Court with clean hands. In the case on hand, it is an undisputed fact that the petitioner is the owner of the suit schedule property and the respondent/defendant is the tenant. The petitioner/plaintiff claims that the respondent/defendant was not paying the fair rent and they are in arrears of rent. The suit was filed by the petitioner/plaintiff for fixation of fair rent and payment of arrears of rent by the respondent/defendant to the petitioner/plaintiff. Presently, the respondent/defendant is not in occupation of the suit premises. The said fact is also not disputed by the petitioner/plaintiff. However, according to the petitioner, the tenancy continues and the respondent/defendant is liable to pay the rent, which they have failed to pay. This issue can be decided only after trial. This Court is



C.R.P. No. 760 of 2025

not going into the said issue in this civil revision petition.

WEB COPY

9. The application in I.A. No. 1 of 2024 was allowed by the Trial Court only due to the fact that the respondent/defendant are no longer occupying the suit schedule property and admittedly, the materials, which are sought to be removed including a strong room belongs to them absolutely. No useful purpose will be served if the materials belonging to the respondent/defendant are allowed to remain in the suit schedule premises. The petitioner/plaintiff's interest in safeguarding his building has also been taken care of by the impugned order wherein it is made clear that the Advocate Commissioner shall see to it that the building is not damaged while removing the materials belonging to the respondent/defendant and handing over the custody of the same to the respondent/defendant. This Court can also provide additional safeguards in favour of the petitioner to protect his building from any damage and compensate the loss to the petitioner, in case, the building is damaged while removing the materials belonging to the respondent/defendant from the suit schedule premises. That is the only limited relief that can be granted in this civil revision petition to the petitioner/plaintiff.



C.R.P. No. 760 of 2025

10. The decision relied upon by the learned counsel for the

petitioner/plaintiff pertains to a case involving seizure of books of account belonging to the appellants therein. However, in the instant case,

(a) *It is an undisputed fact that the materials belonging to the respondent/defendant are of no use to the petitioner/plaintiff. The Trial Court has rightly allowed the application filed by the respondent/defendant by directing the Advocate Commissioner to remove the materials belonging to the respondent/defendant and hand over custody of the same to them;*

(b) *The materials to be handed over to the respondent/defendant include a strong room;*

(c) *The respondent/defendant is a Bank and were earlier occupying the suit schedule premises and it is now informed that during the pendency of the suit, they have vacated and their business operations do not continue in the said premises.*



C.R.P. No. 760 of 2025

11. If the petitioner still feels that the respondent/defendant

continues to be his tenant and the respondent/defendant has to continue to pay the rent to him and is also liable for payment of higher rent as prayed for in the suit, then the petitioner has to work out his remedy in the main suit and not in an application filed by the respondent/defendant seeking return of their materials which includes a strong room from the suit schedule premises. The question of whether the keys were handed over by the respondent/defendant to the petitioner/plaintiff or not is concerned, it is a factual issue and it has to be decided only in the main suit after both parties let in oral and documentary evidence in support of their respective contentions. This Court is not expressing any opinion with regard to the same in this civil revision petition.

12. Section 151 CPC gives inherent powers to this Court to give relief, but at the same time, the said order passed should not be contrary to any of the provisions of the Code. The impugned order passed in the interest of justice by the Trial Court is not contrary to any of the provisions of the Code of Civil Procedure and hence, the question of interference by this Court through this civil revision petition does not arise.



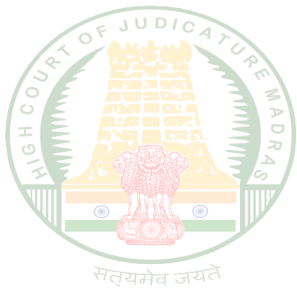
C.R.P. No. 760 of 2025

13. As observed earlier, the only limited relief that can be

granted in this civil revision petition is to provide additional safeguards to the petitioner/plaintiff to protect his property from any damage on account of the removal of materials belonging to the respondent/defendant, which include a strong room with the assistance of an Advocate Commissioner.

14. For the foregoing reasons, this Court is not interfering with the impugned order dated 02.09.2024 passed in I.A. No. 1 of 2024 in O.S. NO. 175 of 2020 on the file of Subordinate Court, Udumalpet. However, this Court is providing additional safeguards to the petitioner to protect his building from damages by issuing the following directions:

(i) The respondent/defendant shall file an affidavit of undertaking before the Trial Court that in case, at the time of removing the materials of the respondent/defendant by the Advocate Commissioner, the building of the petitioner/plaintiff gets damaged, then the respondent/defendant shall compensate the petitioner/plaintiff for the loss suffered by him on account of the said damage. However, the said damage will have to be established before



WEB COPY



C.R.P. No. 760 of 2025

ABDUL QUDDHOSE,J.

nv

a Court of Law.

(ii) The issue whether the respondent/defendant has handed over the keys of suit schedule premises to the petitioner/plaintiff is a factual issue, which will have to be decided by the Trial Court only after trial.

(iii) The Advocate Commissioner appointed by the Trial Court shall seek the assistance of a Civil Engineer while removing the materials belonging to the respondent/defendant from the suit schedule premises and the remuneration of the said Civil Engineer shall be paid by the respondent/defendant.

15. With the aforesaid directions, this civil revision petition is disposed of. No costs. Connected C.M.P. is closed.

16.07.2026

nv

To

The Subordinate Court, Udumalpet.

C.R.P. No. 760 of 2025

10\10