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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**CRP No. 1710 of 2026
and CMP No.7863 of 2026**

1. Y.Mohamed Mushtaq
S/o. Late Mohamed Yousuff, No. 26/48,
Raza Hyder Street, Mount Road,
Chennai-02.

Petitioner(s)

Vs

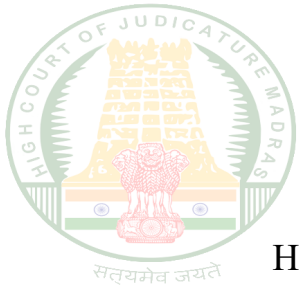
1. Ameerunnissa Begum Sahiba
Endowments
Rep. by its President Jalal Ameenur
Rahman, No.76, Pycrofts Road, Bharathi
Salai, Chennai-05.

Respondent(s)

Revision filed under Article 227 Of Constitution of India against the order dated 30.01.2026 passed by IX Assistant City Civil Court, Chennai in E.A.SR.No.5376 of 2026 in E.P.No.2181 of 2009.

For Petitioner(s): Mr.Prakash Goklaney
For Mr.S.Giri Tharan

For Respondent(s): SOLE RESPONDENT -
AMEERUNNISSA BEGUM
SAHIBA ENDOWMENTS Rep. By
Its President Jalal Ameenur Rahman,
No.76, Pycrofts Road, Bharathi Slai,
Chennai-05.



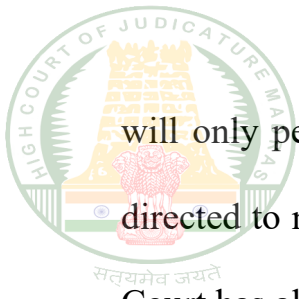
ORDER

Heard Mr.Prakash Goklaney, learned counsel for the petitioner and Mr.L.Gavaskar, learned counsel for the respondent.

2. The primordial submission and grievance of the petitioner is that despite the application filed under Section 47 of Civil Procedure Code having been filed questioning the executability of the decree in O.S.No.3878 of 2003, the executing Court, without even giving an audience to the petitioner to argue the maintainability of the application filed under Section 47 of the Civil Procedure Code, has proceeded to reject the said application going into the merits of the claims made in the application filed under Section 47 of Civil Procedure Code.

3. Learned counsel for the petitioner also took me through the Memorandum of Grounds of the revision in this regard where specifically a challenge is made with regard to anon-affording of an opportunity to the petitioner to be heard before the impugned order came to be passed.

4. This Court has issued series of directions in the case of ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd*** reported in ***2021 SCC Online Mad 2514***, to be followed by the trial Courts, while taking up the applications or suits at the stage of numbering. It is settled law that while numbering the civil suit, the Court



will only perform a ministerial act and not a judicial function. The courts below were directed to number the same and dispose of the application in accordance with law. The Court has also held the Courts should not summarily dismiss the applications at the stage of maintainability and an opportunity should be given to the counsel to address arguments and even if the Court entertains any doubt with regard to the maintainability of the application, the matter should be called in open Court and the counsel for the applicant should be heard.

5. In fact, surprisingly, I find that the impugned order refers to the argument of the counsel for the decree holder. There is not a whisper about any argument having been advanced by the learned counsel for the petitioner/2nd Judgment debtor.

6. In the light of the above, I am inclined to set aside the order dated 30.01.2026 passed by IX Assistant City Civil Court, Chennai in E.A.SR.No.5376 of 2026 in EP No.2181 of 2009. The executing Court shall number the application filed under Section 47 of Civil Procedure Code and shall endeavour to dispose of the same on merits and in accordance with law by 30.09.2026. The parties shall cooperate for expeditious disposal of the Application filed under Section 47 of the Civil Procedure Code without taking unnecessary adjournments.



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P.B.BALAJI.,J

sr

7. With the above direction, the civil revision petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

06.07.2026

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Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order

To

The IX Assistant City Civil Court, Chennai

CRP No. 1710 of 2026