



THE HIGH COURT OF JUDICATURE AT MADRAS

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Judgment reserved on : 01.07.2026

Judgment pronounced on : 17.07.2026

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

Rev.Appln.No.88 of 2026
& CMP.No.8006 of 2026

M.Venkatesh

.. Petitioner

Vs.

T.Subramanian (Died)

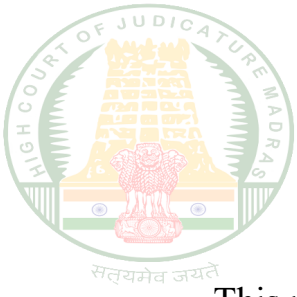
1.M.Tejraj
2.Arumugasamy
3.Chinnathai
4.S.Jagadeeswaran
5.S.Mohana
6.S.Sundareswaran
7.S.Purushothaman
8.Bhuvaneswari

.. Respondents

Prayer: Civil Revision Petition filed under Section 114 r/w Order 47 Rule 1 of CPC, to review the order passed in CRP.No.3710 of 2025 dated 12.12.2025.

For Petitioner : Mr.Ma.Pa.Thangavel

For Respondents : Mr.R.Annamalai for R1
Mr.K.Prabhakaran for RR4 to 8
RR2 & 3 not ready in notice



ORDER

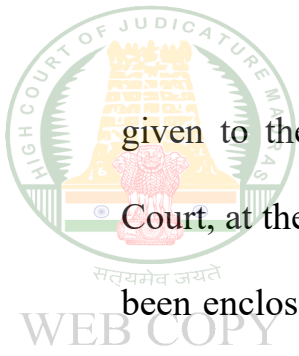
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This review application has been filed seeking to review the order passed by me in CRP.No.3710 of 2025 on 12.12.2025.

2. I have heard Mr.Ma.Pa.Thangavel, learned counsel for the review applicant and Mr.R.Annamalai, learned counsel for the 1st respondent and Mr.K.Prabhakaran, learned counsel for the respondents 4 to 5.

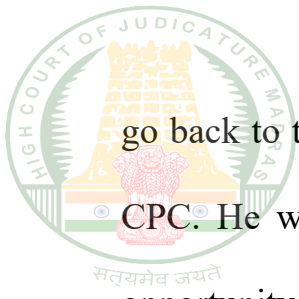
3.Mr.Ma.Pa.Thangavel, learned counsel for the review applicant would firstly contend that admittedly the petitioner is in possession of the decretal property and the petitioner ought not to have been non-suited on the ground of misquoting of provision of law, by invoking Order XXI Rule 99 of CPC, instead of Order XXI Rule 97 of CPC, which alone is the applicable rule in the present case. He would further contend that admittedly, the suit property belongs to a Trust and the suit property could not have been alienated, without the prior permission of the Commissioner under Section 34 of the Hindu Religious and Charitable Endowments Act and fraud has been played by dealing with the property of the Trust.

4.The learned counsel for the review applicant would further state that when fraud is alleged, it can be proved even in collateral proceedings and an opportunity should be



given to the petitioner to establish the manner of fraud that has been played Court, at the instance of the respondents. He would also rely on the documents that have been enclosed by way of an additional typed set of papers and would refer to sale deed and settlement deed, which have been executed without any iota or right available to the executant. In support of his contentions, the learned counsel for the review applicant has relied on the decision of the Hon'ble Supreme Court in *Urban Improvement Trust, Jodhpur Vs. Gokul Narain (Dead) by LRs and another*, reported in (1996) 4 SCC 178, *Renjith K.G and others Vs. Sheeba*, reported in 2024 SCC Online SC 2821 and *S.P.Chengalvaraya Naidu (Dead) by Lrs Vs. Jagannath (Dead) by LRs and others*, reported in (1994) 1 SCC 1. He would therefore pray for the review application being allowed.

5.Per contra, Mr.K.Prabhakaran, learned counsel appearing for the respondents 4 to 8 would contend that the review applicant claims to be a lessee, as well as an agreement-holder under the judgment-debtor and admittedly, the sale agreement dated 23.12.2020 and the lease agreement dated 30.11.2021 are unregistrable and no independent right, title or interest has been claimed by the review applicant. Relying on Order XXI Rule 102 of CPC, the learned counsel would further contend that the very invocation of either Rule 97 or Rule 99 of CPC does not arise in the instant case, in view of the express bar under Rule 102 of CPC and rightly, the revision petition had been dismissed and there was no necessity to give any opportunity to the review applicant to



go back to the Executing Court and agitate his application under Order XXI Rule 97 of

CPC. He would also point out that the similarly placed tenants, who were given an opportunity to have their applications tested, were also unsuccessful and possession has also been delivered to the respondents 4 to 8 through Court process and therefore, there is absolutely no merit in the review application. Additionally, the learned counsel for the respondents 4 to 8 would further contend that none of the documents have been relied on either before the Executing Court or at the time when the revision was disposed of and therefore, none of the documents can be even looked into while considering the review application.

6. The learned counsel for the 1st respondent-decree holder adopts the arguments of the learned counsel for the respondents 4 to 8.

7. It would be relevant to refer to the prayer originally sought for by the review applicant before the Executing Court. A common affidavit, with two prayers, were sought for, one to determine the question of the interest of the petitioner and the other, challenging the sale deed dated 18.04.2012. The learned counsel for the review applicant, pointing out to ground No.ii) in the memorandum of grounds of review, would contend that the relief sought for with respect to challenging the sale deed dated 18.04.2012 was given up even before the Executing Court and it was only an Order XXI Rule 97 application to determine the interest of the review applicant that was argued. In

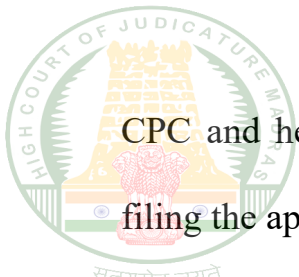


view of the above, I do not see any necessity to deal with the issue of validity of deed at this point of time.

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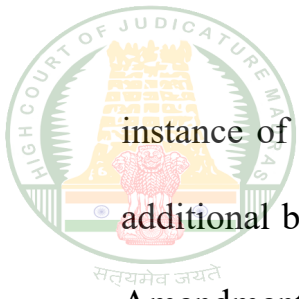
8. Firstly, in the revision, I have not non-suited the review applicant on the ground that he has invoked a wrong provision of law, namely Order XXI Rule 99 of CPC, instead of Order XXI Rule 97 of CPC. Admittedly, the review applicant is in possession and hence, even though Rule 99 was invoked, still the Executing Court can entertain the application and treat it as one under Order XXI Rule 97 of CPC, especially when the procedure contemplated to enquire into applications filed under both Order XXI Rule 97 of CPC and Order XXI Rule 99 of CPC is one and the same, namely, in terms of Rule 101 of CPC.

9. The review applicant does not assert any independent right or title in the suit property. His only claim is that he entered into the property as a lessee and further he has an unregistered agreement of sale to purchase the suit property. Both these documents are long after even the filing of the execution petition in the year 2019. It is in such circumstances that I proceeded to find that the petitioner having unsuccessfully challenged the orders in E.A.Nos.38 of 2013, 26 of 2014 and 45 of 2014 before this Court in CRP.Nos.4452, 4453 & 4454 of 2025 and with the revisions being dismissed and that the petitioner did not have any independent claim over the subject property and it was only a claim made under the judgment-debtor, I applied the bar under Rule 102 of



CPC and held that even assuming there has been misquoting of provision of law, by filing the application under Order XXI Rule 99 of CPC, instead of Order XXI Rule 97 of CPC, even then the petitioner was admittedly only claiming under the judgment-debtor, both as a lessee and as an agreement holder/prospective purchaser *pendente lite* and cannot take umbrage under Order XXI Rule 97 of CPC. Rule 102, specifically places an embargo on persons like the petitioner herein. The grounds raised in the review application are on the basis as if the property of the Trust has been fraudulently alienated and therefore, it can be looked into even in collateral proceedings. These allegations are made by the review applicant only in order to protect his possession, that too, after not only becoming a lessee under the judgment debtor, but also having entered into a sale agreement along with his wife to purchase the suit property. Therefore, the petitioner cannot blow hot and cold and project a case as if he is exposing fraud committed by the decree-holder, when the hands of the review applicant himself are unclean.

10. Coming to the judgments that have been relied on by the learned counsel review applicant, in *Urban Improvement Trust's case*, the Hon'ble Supreme Court held that when a Court had passed a decree without jurisdiction, then it would be a nullity and non-est in law and its invalidity can be set up whenever it is sought to be enforced or acted upon, including at the stage of execution or in collateral proceedings, as it strikes at the very jurisdiction and authority of the Court. The Hon'ble Supreme Court was dealing with a Section 47 application, questioning the executability of a decree at the



instance of the judgment-debtor, who suffered the decree in a case where awaiting of additional benefits under the Land Acquisition Act was in question and finding that the Amendment Act 68 of 1984 had no application to the lands acquired under the Act and only with effect from 01.08.1987, it was made applicable to pending proceedings alone, the Hon'ble Supreme Court held that the order allotting additional benefits was without jurisdiction and therefore, a nullity. There is absolutely no quarrel with regard to the ratio laid down by the Hon'ble Supreme Court. However, I do not see how this decision would apply to the facts of the present case.

11. In *Renjith K.G's case*, the Hon'ble Supreme Court held that even a stranger to the decree can adjudicate his claim of independent right, title or interest in the decretal property. That was a case where an application was filed under Order XXI Rule 99 of CPC for redelivery of possession. Even in the said decision, the Hon'ble Supreme Court only held that if the stranger had an independent right, title or interest in the decretal property, he could maintain an application under order XXI Rule 99 of CPC. Here, I had already dealt with the fact that the petitioner had no Independent right, but was only claiming under the judgment-debtor. In fact, this finding was rendered even in the revision petition itself.

12. Though the decision in *Chengalvarayan's case* has also been relied on to drive home the point that when a decree was obtained by playing fraud on the Court, then the



principle of finality of litigation cannot be pressed into service, to give a seal of approval to the fraud committed by dishonest litigants. The facts of the case before the Hon'ble Supreme Court in *Chengalvarayan's case* was entirely revolving around non disclosure of relevant materials and documents with an ulterior motive to gain undue advantage. In fact, in the said case, despite having already released his rights, the plaintiff had filed a partition suit and it was in this circumstances that the Hon'ble Supreme Court came down heavily on suppression of material facts and held the decree in the partition suit to be the nullity. This decision again does not in any manner come to the rescue of the review applicant.

13. Further, the scope of review under Order XLVII of CPC is very narrow and microscopic and unless the review applicant shows an error apparent on the face of record, it is not permissible to invoke the review jurisdiction available under the CPC. Here, admittedly, the review applicant has not been able to point out to any error apparent on the face of the record of the order, especially from the light of the documents that were available on the date of disposal of the revision petition. In such circumstances, having held that the petitioner is not entitled to even invoke Order XXI Rule 97 of CPC, giving the benefit of misquoting of provision of law to the petitioner as well, the petitioner had no locus since he did not approach the Court, setting up an independent right of claim in the suit property and his claim was clearly made claiming



under the judgment debtor. In such circumstances, I see no merit in the review application and the same is deserved to be dismissed.

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14. In fine, this Review Application is dismissed. No costs. Connected Civil Miscellaneous Petition is closed.

17.07.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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To

The Principal District and Sessions Judge, Thiruvallur.



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P.B.BALAJI.J.

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Pre-delivery order made in
Rev.Appln.No.88 of 2026
& CMP.No.8006 of 2026

17.07.2026