

C.R.P(MD).No.1998 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.07.2026**

CORAM

**THE HONOURABLE MR JUSTICE S. SOUNTHAR**

**C.R.P(MD).No.1998 of 2026**

**and C.M.P(MD).No.9538 of 2026**

Ramakrishnan (died)

1.R.Nagalakshmi

2.R.Dharmabalan

3.R.Ramya

... Petitioners

Vs

S.Azhagarsamy

... Respondent

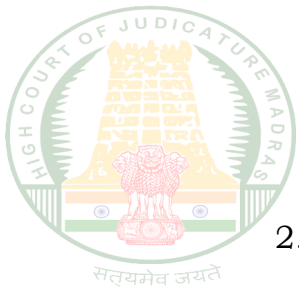
**Prayer:** Petition is filed under Section 115 of the Code of Civil Procedure, to call for the records in pertaining to the order dated 30.06.2026 made in E.A.No.13 of 2025 in E.P.No.29 of 2017 in R.C.O.P.No.83 of 2009 on the file of the I Additional District Munsif, Tiruchirappalli and set aside the same.

For Petitioners : Ms.J.Anandhavalli  
for Mr.T.Vadivelan

For Respondent : Mr.P.Mahendran

### **ORDER**

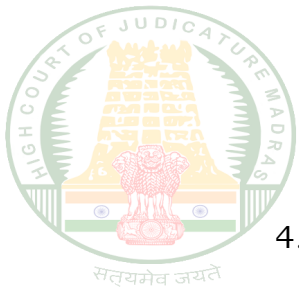
This civil revision petition is filed challenging the order passed by the Executing Court dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to measure the property described in execution petition with the help of qualified Surveyor.



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2.It is not in dispute that the respondent herein filed a rent control eviction petition against the husband of the present petitioner, namely, Ramakrishnan and an order of eviction was passed against him. The eviction order passed by the Trial Court was confirmed by the High Court in C.R.P(MD).Nos.1578 and 1579 of 2017. The said eviction order was put into execution in E.P.No.29 of 2017. Pending execution petition, the petitioner's husband, Ramakrishnan, died and the petitioner was brought on record as his legal representative.

3.In the execution proceedings, the petitioner herein filed a claim petition in E.A.No.20 of 2018 stating that the suit property belonged to her husband's grandmother, Vellaiyammal and after her death, the property devolved on a petitioner's husband, Ramakrishnan, and he executed a settlement deed in favour of the petitioner. The Executing Court found that there was no material to substantiate the claim that property originally belonged to one Vellaiyammal and dismissed the claim petition. The said order was confirmed by this Court in C.R.P(NPD) (MD).No.2182 of 2024. Thereafter, instant application has been filed by the petitioner seeking appointment of Advocate Commissioner to measure the suit property and the said application was dismissed by the Executing Court. Aggrieved by the same, the petitioner has come before this Court.



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4.The learned counsel appearing for the petitioners would submit that the respondent purchased only 2500 sq.ft of property in Survey No. 19 /1 and the house in occupation of the petitioner is not situated within 2500 sq.ft purchased by the respondent. Therefore, the Advocate Commissioner shall be appointed to identify the property in occupation of the petitioner.

5.Neither in the eviction petition nor in the earlier claim petition, the petitioner raised a point that she is in occupation of different property. The respondent described the demised premises with four boundaries in the eviction petition and it was not the case of the petitioner earlier that the property in her occupation is not coming within the four boundaries mentioned in the description of the property. It is settled law the points, which ought to have been raised earlier, should not have been allowed to be raised in the subsequent proceedings in view of doctrine of constructive *res judicata* recognized under the Explanation IV to Section 11 of the Code of Civil Procedure. In the case on hand, the petitioner's husband suffered an order of eviction and subsequently, the petitioner attempted to claim independent right over the suit property, filed a claim petition and the same was also dismissed. Now, as a third attempt, the petitioner filed the present application seeking appointment of an Advocate Commissioner to identify the property. The execution petition was of the year 2017 and the



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same has been dragged on for nearly 9 years as the petitioner filed various applications claiming independent right over the demised properties. It is also pertinent to mention that the present execution petition is filed to execute the order of eviction passed in a rent control proceeding based on jural relationship. The respondent has not obtained any decree for recovery of possession based on title. Therefore, this Court cannot go into the question of disputes in title. The Executing Court cannot go beyond the decree and the eviction order passed against the petitioner based on jural relationship has to be executed in its letter and spirit in respect of the property described in the eviction petition. The petitioner is not entitled to raise new points by filing successive petition and drag on the proceedings. The Executing Court taking into consideration earlier petitions filed by the petitioner and the pendency of the execution petition for several years, rightly dismissed the application filed by the petitioner. I do not find any irregularity or illegality in the said order and accordingly, this Civil Revision Petition stands dismissed.

6.The Apex Court in the case of **Rahul S. Shah v. Jinendra Kumar Gandhi** reported in **(2021) 6 SCC 418** directed the Executing Court to dispose of execution petition within a timeline of six months. Unfortunately, in this case, the execution petition has been kept pending for nearly nine years. In view of the same, the Executing Court is directed



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to dispose of the execution petition as expeditiously as possible having the timeline fixed by the Apex Court in **Rahul's case** stated *supra* in its mind.

No costs. Consequently, connected Miscellaneous Petition is closed.

**27.07.2026**

*NCC : Yes/No*  
*Index : Yes/No*  
*Rmk*

*To*

1.I Additional District Munsif, Tiruchirappalli.

2.The Section Officer,

VR Section, Madurai Bench of Madras High Court, Madurai.



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**S. SOUNTHAR.J.**

*Rmk*

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