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Rev.Appl.No.67 of 2025
in C.R.P.No.452 of 2024,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.10.2025

Pronounced on : 17.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Rev.Appl.No.67 of 2025

and

C.M.P.No.6687 of 2025

E.Thiyagarajan

... Petitioner

Vs.

1.Hariharan

2.Baby

Mohan (died on 03.12.2011)

Kala (died on 08.01.2015)

... Respondents

Prayer : Review Application filed under Section 114 of the Code of Civil Procedure r/w. Order 47 Rules 1 and 2 of Code of Civil Procedure to review the order dated 28.01.2025 passed in C.R.P.No.452 of 2024.

For Petitioner : Mr.V.Raghavachari
Senior Counsel
for Mr.P.J.Rishikesh

For R1 : Mr.J.Gouthaman
Senior Counsel
for Mr.S.Mohanasundararajan



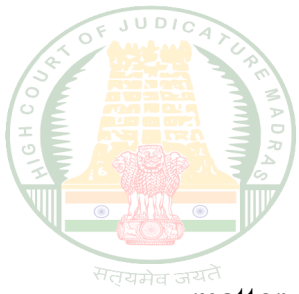
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ORDER

This Review Application has been filed to review the order dated 28.01.2025 passed in C.R.P.No.452 of 2024 filed against the order dated 06.11.2023 passed in E.A.No.228 of 2017 in E.P.No.49 of 2010 in O.S.No.392 of 1997 on the file of the District Munsif Court, Alandur.

2.Originally, the suit in O.S.No.392 of 1997 has been filed by the respondents 1 and 2 as against one Mohan and Kala (hereinafter referred to as “original defendants”) for declaration of title and permanent injunction in respect of the property bearing Plot No.102 in MMDA approved layout No.63/74 situated in Madipakkam Mathura, Pulithivakkam Village, Saidapet Taluk. The said suit was decreed after full contest by decree and judgment dated 26.11.2008. Thereafter, Execution Petition has been filed by the decree holders/respondents 1 and 2 in E.P.No.49 of 2010. The decree holders filed E.A.No.228 of 2017 for removal of obstruction as against the original defendants/judgment debtors and the petitioner herein, who is a third party obstructor claiming title to the property through the 1st defendant in the suit, namely, Mohan, on the ground that the property which is subject

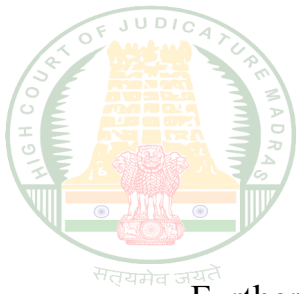


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matter of the suit is different from the property which was purchased by the obstructor. The said application in E.A.No.228 of 2017 was allowed and delivery was ordered by the Execution Court by order dated 06.11.2023. Challenging the same, the petitioner/obstructor filed a revision before this Court in C.R.P.No.452 of 2024. This Court, by order dated 28.01.2025, dismissed the revision. To review the order passed in the revision, the present review application has been filed.

3.The main ground on which the order is sought to be reviewed is that various documents filed by the petitioner have not been considered by the Execution Court. Further, it is the contention of the review petitioner that the property of the petitioner is different from the property which is sought to be delivered and it is his contention that the non-consideration of several documents relied upon by him, including the crucial evidence in support of his case, goes to the very root of the matter. According to the petitioner, there is no house site in Plot No.102 in the Layout Plan No.63/1974 as relied upon by the respondents 1 and 2/plaintiffs. According to him, the predecessor of his vendor owned land in a different survey number which is distinctly different from the land claimed by the respondents/deed holders.

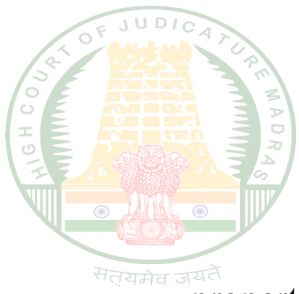


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Further, it is his contention that the trial Court has not considered the evidence in a proper perspective. In sum and substance, according to the petitioner, the subject matter of the suit is totally different from the property owned by the petitioner and therefore, the decree is non-executable.

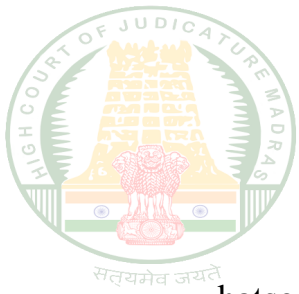
4.Mr.V.Raghavachari, learned Senior Counsel appearing for the review petitioner, mainly would submit that the decree obtained by the respondents 1 and 2 relates to a different survey number. According to him, the suit itself is laid in respect of a vacant house site situated in S.Nos.68/2 and 68/3 in Madipakkam Mathura, Pulithivakkam Village, Saidapet Taluk, bearing Plot No.102 in the MMDA approved layout No.63/74, whereas, the revision petitioner has purchased a property from his vendor in respect of Plot No.73-B and Plot No.10 lying on the south of Plot No.73-B, which is totally different from the subject matter of the suit. Hence, it is his contention that the property purchased by the decree holders is in a different survey number. The learned Senior Counsel would also submit that the Advocate Commissioner has not properly identified the property, though the boundaries set out in two different sale deeds relied upon by the plaintiffs and the defendants (Exs.B2 and B3) clearly indicate that they are different



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properties. Hence, it is his contention that, when the sale deeds relied upon by the petitioner is in his favour, the Execution Court has not considered this aspect and the Execution Court has allowed the petition for removal of obstruction and for delivery. Therefore, he objected to the execution of the decree.

5. Whereas, Mr.T.Gouthaman, learned Senior Counsel appearing for the 1st respondent, would submit that the review petitioner is a transferee *pendente lite*. The original defendants have also taken a similar defence in the suit and the suit has been decreed after full contest. The Advocate Commissioner appointed, with the help of Taluk Surveyor, has surveyed the property and the property has been properly identified. Therefore, it is his contention that a transferee *pendente lite* has no right to question the decree passed against his vendor. Even though this Court has earlier set aside the *ex parte* order passed against the petitioner and directed the Execution Court to reconsider the matter, the Execution Court has properly considered every aspect and passed an order of delivery. It is his further contention that the review petitioner, being the transferee *pendente lite*, who has put up a construction despite the order of injunction passed in the suit, has no right,

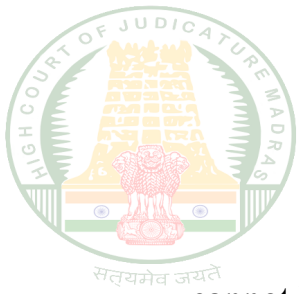


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whatsoever, to resist the decree and therefore, the review application is nothing but an attempt to reagitate the settled issues, which cannot be permitted and therefore, opposed the application.

6.I have perused the entire materials available on record.

7.While dismissing the revision petition in C.R.P.No.452 of 2024, this Court took note of the fact that the revision petitioner has purchased the property on 28.12.2012 from one Thambidurai who was a purchaser from the 1st defendant in the suit. Since the said property was subject matter of the suit in O.S.No.392 of 1997 and the said suit has been decreed after full contest and the purchase was made only during the execution stage, this Court has dismissed the revision. Now, the present review application has been filed mainly on the ground that the property which is the subject matter of the suit and the property purchased by the review petitioner are different. It is the specific contention of the learned Senior Counsel appearing for the review petitioner that, as per the original layout, Plot No.102 is not available. Hence, according to him, though review petitioner is a subsequent purchaser, since he has purchased a different property, the decree

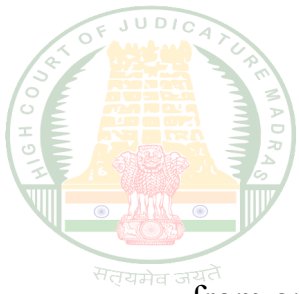


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cannot be executed.

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8.In the light of the specific submission made before this Court once again even at this review application stage, this Court called for the original records from the trial Court and the Execution Court and perused the original plaint, written statement and the Advocate Commissioner's report. On such perusal, it is seen that the suit has been filed by the respondents 1 and 2 herein as against one Mohan and Kala, for declaration of title and for mandatory injunction directing the defendants to vacate the deliver vacant possession of the suit land bearing Plot No.102 in the MMDA approved lay out No.63/74, situated in Madipakkam Mathura, Pulithivakkam Village, Saidapet Taluk, and for permanent injunction. In the said suit, a specific defence was taken by the defendants in their written statements that the 1st defendant, namely Mohan, purchased a vacant site bearing Plot No.73-B in S.No.69 of Madipakkam Village, Saidapet Taluk, and also a vacant site No.10 lying on the southern side of Plot No.73-B, by way of sale deed dated 08.10.1986 from one Mohanambal, wife of V.Srinivasa Iyer. According to them, the said property was owned by one V.Srinivasa Iyer, who, in turn, purchased the same by virtue of a registered sale deed dated 07.08.1963



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from one R.Nataraja Mudaliar and N.Lakshmi Bai.

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9. Based on the pleadings, necessary issues were framed by the trial Court. The main issues were, whether the plaintiffs are entitled to the relief of declaration as to the title of the suit property; and whether the plaintiffs are entitled to the relief of mandatory injunction as prayed for.

10. On the side of the plaintiffs, the 1st plaintiff was examined as P.W.1 and Exs.A1 to A8 were marked. On the side of the defendants, the 1st defendant was examined as D.W.1 and Exs.B1 to B5 were marked including all the sale deeds.

11. After a full contest, the contention of the defendants that the property purchased by them is a different property situated in other survey number, was negatived by the trial Court on appreciation of overall documents and evidence on record. In fact, an Advocate Commissioner was also appointed by the trial Court to identify the property and the Commissioner's report was also taken note of and Exs.C1 to C4 have been marked. The Commissioner, in fact, with the help of Taluk Surveyor, has

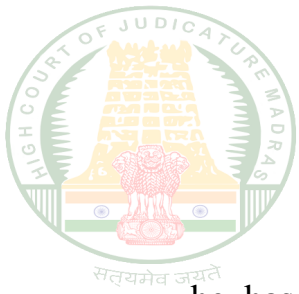


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identified the property after verifying with the Revenue records, and has submitted a report stating that S.No.68/3, which was originally purchased by the plaintiffs, was further subdivided as S.No.68/115. Though it is claimed by the defendants that the property purchased by them is situated in S.No.69, no document, whatsoever, has been filed by them and no layout plan or approval is filed in their favour, before the trial Court. Based on that, the suit has been decreed in favour of the plaintiffs. In other words, the contention of the defendants that the property is a different one, is negated by the trial Court.

12.It is relevant to note that, even the evidence of one of the defendants (D.W.1) clearly indicates that he is not denying the interim order as against them and that the construction has been up after the interim order was obtained against them in the year 1987. Though he has pleaded ignorance of the interim order operating as against them, his entire evidence clearly indicates that, only during the subsistence of the interim order, construction has been put up by them. He has also pleaded ignorance about the subdivision of S.No.68/3 as S.No.68/115. His evidence further indicates that, only during the pendency of the suit, after putting up the construction,



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he has transferred the property to the third parties. The petitioner has purchased the property only in the year 2012. His vendor was one Thambidurai. The said Thambidurai himself is a transferee *pendente lite* and the suit was decreed in the year 2008 and the Execution Petition has been filed in the year 2010. During the pendency of the Execution Petition, the petitioner has purchased the property.

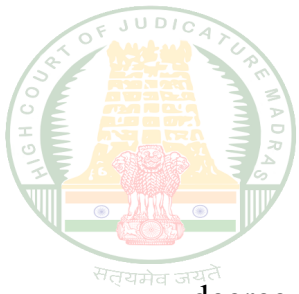
13. Therefore, the evidence of the defendants in the suit clearly indicates that the construction has been put up by the original defendants during the pendency of the suit and the property has been sold in violation of the interim order operating against them. The subdivision of the property is also not denied. The Commissioner's report and the Taluk Suveyor's report clearly indicate that the identity of the property has been clearly established and the property purchased by the decree holders was later subdivided as S.No.68/115. Only based on that reports and the evidence of the parties to the effect that the property has been sold during the pendency of the proceedings, the suit came to be decreed in favour of the respondents 1 and 2.



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14.The Commissioner's report is also filed before the Court as Exs.C1 to C4, which is not objected by the petitioner. Exs.C1 to C4 are also perused by this Court. The suit property is identified with Revenue records and the same has been subdivided as S.No.68/115. Along with Advocate Commissioner's report, approved layout sketch is also filed, wherein, Plot No.102 is also originally shown in the layout. The property has been measured and identified with the Taluk Surveyor. These facts, reports, layout, measurement and sketch filed by the Commissioner, are not disputed and no objections have been filed to these documents Exs.C1 to C4. Now, the review petitioner projects as if he has purchased a different property. In the suit, the very issue is with regard to the identity of the property. The said issue has already been decided in the suit. The direct and substantial issue raised by the review petitioner, who is a transferee *pendente lite*, has already been decided between the parties. The petitioner claims title through Mohan, who was already a party to the suit as 1st defendant. Therefore, once a decision in the suit has already reached finality on an issue, such a decision operates as *res judicata*. Besides, a transferee *pendente lite* cannot make any obstruction or resistance to execution of



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decree for possession of immovable property, in law. There is clear bar under Rule 102 of Order XXI CPC. Now, the petitioner tries to unsettle the issues which have already been settled between the respondents/plaintiffs and the petitioner's predecessor-in-title/1st defendant, which cannot be permitted in the eye of law. The review petitioner, having failed in all attempts, once again is trying to re-litigate the matter which has already reached finality between the decree holders and the defendant under whom the review petitioner claims title. Such a course is not permissible.

15.It is also to be noted that an obstruction petition was filed by one T.P.Gopalakrishnan in E.A.No.204 of 2012 in E.P.No.49 of 2010 in O.S.No.392 of 1997 and the matter prolonged for three years and the said application was dismissed by the trial Court. As against the same, a Civil Miscellaneous Appeal in C.M.A.No.9 of 2015 was also filed before the Sub-Court, Tambaram, and the same was also dismissed, as against which, a revision was filed before this Court in C.R.P.(NPD) No.1526 of 2017. This Court, by order dated 01.06.2017, dismissed the revision.



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16. When the application filed under Order XXI Rule 97 CPC had already been dismissed and the order has reached finality, now once again, the review petitioner has filed a revision challenging the order of delivery, which was dismissed, thereafter, once again, this review petition has been filed. The revision has been filed challenging the order of the Execution Court allowing the petition to remove the obstruction caused by a transferee *pendente lite* and ordering delivery. This Court, on considering the materials on record, had dismissed the revision. Now, even on perusal of entire pleadings, evidence, reports and documents on record once again and in view of the above discussion, this Court finds no error apparent on the face of the record to review the order passed in C.R.P.No.452 of 2024, dated 28.01.2025, and this Court is of the view that the review is nothing but a re-litigation. Therefore, this Court finds no merit in the review application.

17. Accordingly, this Review Application is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.10.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

The District Munsif,
District Munsif Court, Alandur.



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N. SATHISH KUMAR, J.

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Pre-Delivery Order in
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