

C.R.P. (PD) No.1076 of 2025

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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.03.2025

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P. (PD) No.1076 of 2025
and C.M.P.No.6141 of 2025

Leonard Sagayanathan

...Petitioner

-VS-

1. Archbishop of Madras- Mylapore.
Most.Rev.Dr.George Antonysamy,
S/o. Late S.Antonysamy,
represented by his duly appointed power agent,
Rev. Fr.S. Ignatius Thomas,
S/o. A.S.Soosai,
Residing at Archbishop's House,
No.41, Santhome High Road,
Chennai – 04.

2. Archdiocese of Madras - Mylapore Society,
Represented by its Chairman,
Archbishiop of Madras - Mylapore,
Most. Rev. Dr. George Antonysamy
S/o. A.S.Soosai,
Residing at Archbishop's House,
No.41, Santhome High Road
Chennai – 04.

..Respondents



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P.Helen Monica (Deceased)

3. Ashok,

4. Ms. Isabell

...Respondents

PRAYER: Civil Revision Petition filled under Article 227 of Constitution of India to set aside the order of rejection dated 17.02.2025 made in E.A.Sr.No.7745 of 2024 in E.P.No.4365 of 2021 in O.S.No.4056 of 2014 on the file of IX Assistant City Civil Court, Chennai and to allow the above Civil Revision Petition.

For Petitioner : Mr.C.Prabakaran

ORDER

Challenging the dismissal of his obstruction application without numbering the same, the petitioner is before this Court

2. The short facts which has preceeded the filing of this civil revision petition are herein below set out. The parties are hereinafter referred to in the same ranking as before the trial Court.

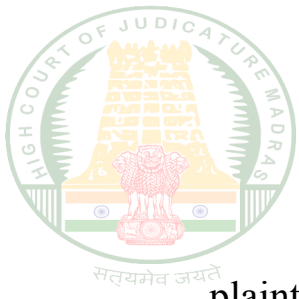


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3. The plaintiffs, who are respondents 1 and 2 herein, had filed the suit O.S.No.4056 of 2014 on the file of the XV Assistant Judge, City Civil Court, Chennai seeking recovery of possession of the suit property, mandatory injunction directing the defendant to demolish the unauthorized construction measuring 270 sq.ft (B schedule), to pay a sum of Rs.20,000/- per month for use and occupation from the date of filing of the suit till the date of delivery of the suit property, to injunct the defendant, their men, agents etc from putting up construction in respect of the “A” schedule property and injunction from encumbering the “A” schedule property.

4. The plaintiffs' contention is that they are the owners of the land and building bearing Door No.73, St.Mary's Church Colony, Abhiramapuram in R.S.No.3977, Plot No.88 measuring 359 sq.ft. The defendant had occupied the above door number as a tenant under the 2nd plaintiff on a monthly rental of Rs.250/- excluding electricity and water charges. Since the property was required by the

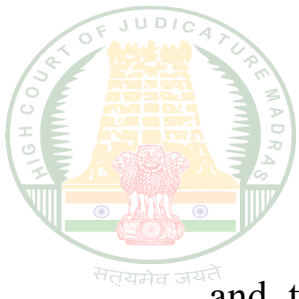


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plaintiffs to carry out the charitable and religious activities, they had issued a notice under Section 106 of the Transfer of Property Act terminating the tenancy with effect from 30.03.2014. The same was conveyed to the defendant under a Notice dated 04.03.2014. The plaintiffs would submit that the defendant has deliberately not vacated the property and has been paying only a meagre rent of Rs.250/-. The defendant sent a reply notice dated 24.03.2014 denying the very right of the plaintiffs to the property. The plaintiffs apprehend that the defendant may let out the premises to the third parties and the property would fetch nearly Rs.20,000/- per month as rent. Therefore, the suit in question.

5. Originally, the suit was filed against Helen Monicka, the mother of the revision petitioner. There was no tenancy agreement between the plaintiff and her. The first plaintiff cannot claim ownership of the property. They would submit that De monte the person who owned the vast extent had created a Trust through a Will

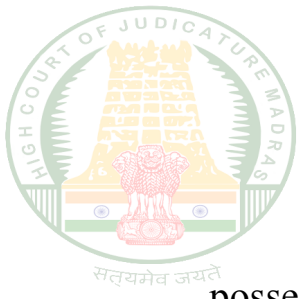


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and the patta stands in the name of the 2nd plaintiff. It is the contention of the defendant that the plaintiffs never maintained the property and it is the defendant who is carrying out minor repairs. They had formed an association in the name of St.Mary's Colony Tenants Welfare Association. Their attempts to pay rent had failed and therefore, they had sent their rents through money order which was returned by the plaintiffs. Thereafter, the Association has deposited the rent into the Bank account opened by them. Therefore, they sought for dismissal of the suit.

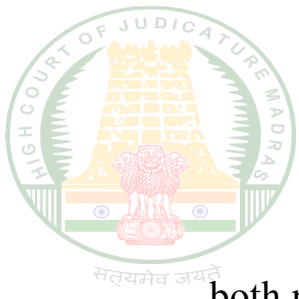
6. On the side of the plaintiffs, one witness was examined as P.W1 and Exs.A1 to A32 were marked. On the side of the defendant, two witnesses were examined and Exs.B1 to B36 were marked. Ultimately, the learned Judge proceeded to decree the suit as prayed for. The decree was not challenged. Thereafter, the plaintiffs had filed E.P.No.4365 of 2021 seeking to recover vacant



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possession of the property. The original defendant had passed away and her children were brought on record as defendants 2 and 3.

7. The defendants 2 and 3 had filed an application to reject the execution proceedings in E.P.No.4365 of 2021 by filing E.A.Sr.No.42757 of 2024. By order dated 22.07.2024 the learned Judge, without even numbering the application, had proceeded to dismiss the application which was filed under the provisions of Order XXI Rule 97 r/w section 151 of C.P.C and the same was challenged by the defendants in C.R.P.NPD.No.4276 of 2024. By order dated 11.11.2024, this Court was pleased to dismiss the revision. Thereafter, the present petitioner has filed an obstruction application in E.A.Sr.No.77475 of 2024 under Order 21 Rule 97 r/w. 151 of C.P.C stating that he is in possession of the property and without impleading him, E.P. was not executable. The said application was opposed tooth and nail by the plaintiffs who had contended that E.A could not be numbered. The learned Judge heard

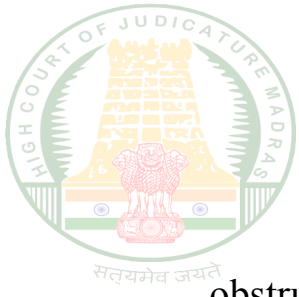


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both parties and thereafter, proceeded to dismiss the said application.

Aggrieved by which, the petitioner is before this Court.

8. The main argument advanced by the learned counsel for the petitioner is that though he is in possession of the property, he has not been made a party to any of the proceedings. He would also concede that he is only claiming under the original defendant who is none else than his mother. Two of his siblings, who are already on record, have pleaded that they are in possession of the property and their objections had been negatived by this Court in C.R.P.NPD.No.4276 of 2024. It is also seen that the petitioner, who claims to be in possession of the property, has not deemed it fit to implead himself in the suit after the death of his mother. The technical objections that have been raised by the petitioner have also been rejected by the IX Assistant Judge, City Civil Court, Chennai. The decree, having obtained finality, the Executing Court is bound by it. From the very recital of the facts, it is crystal clear that the



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obstruction petition is vexatious and frivolous and made only with an intent to protract and prolong the decree holder from enjoying the fruits of the decree. The learned Judge has rightly rejected the application and I see no reason to interfere with the same. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2025

Index: yes/no
Speaking Order: Yes/No
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To

The IX Assistant City Civil Court, Chennai



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P.T.ASHA, J.

srn

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