



WEB COPY

CRP No. 1095 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 1095 of 2025

AND

CMP NO. 6293 OF 2025

1. SUSILA

W/o. Late Perumal, also at Plot No.63,
No.44/2, Thangal Ulvoy Street,
Aranganathan Nagar, Virugambakkam,
Chennai - 092.

2.P. Nagarajan

S/o. Late Perumal, Res at No.943, 2nd
Cross Street, Vinayagapuram,
Kattupakkam, Chennai - 056.

3.P. Ramachandran

S/o. Late Perumal, Res at No.943, 2nd
Cross Street, Vinayagapuram,
Kattupakkam, Chennai - 056.

4.P. Devi

D/o. Late Perumal, Res at No.943, 2nd
Cross Street, Vinayagapuram,
Kattupakkam, Chennai - 056.

5.A. Raji

W/o.P. Nagarajan, Res at No.943, 2nd
Cross Street, Vinayagapuram,



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CRP No. 1095 of 2025



Kattupakkam, Chennai - 056.

Petitioner(s)

Vs

1. U. Kalavathi

W/o. Late Udayakumar, No.44/1
Thangal Ulvoy Street, Aranganathan
Nagar, Virugambakkam, Chennai - 092.

2.U. Revathi

D/o Late Udayakumar And W/o. S.
Dilip Kumar, No.10/19, Boobegum
Street, Vtc, Annasalai, Chennai - 092.

3.T. Megavalli

W/o. Late Thayumana Swamy,
No.44/1, Thangal Ulvoy Street,
Aranganathan Nagar, Virugambakkam,
Chennai - 092.

4.The Administrative Engineer

Estate Office, Division - Vi, Tamil
Nadu Urban Habitat Development
Board, Sivalingampuram, K.k Nagar,
Chennai - 078.

5.The Managing Director

Tamil Nadu Urban Habitat
Development Board, No.5, Kamarajar
Salai, Chennai - 005.

Respondent(s)

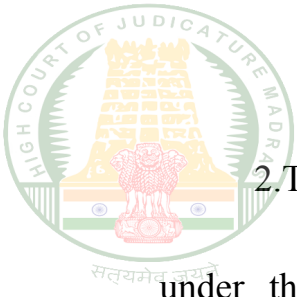
**PRAYER**

This civil revision petition is filed under Article 227 of the Constitution of India praying to set aside the order and decretal order dated 21.02.2025 passed in IA No.3 of 2023 in OS No.2722 of 2023 by the Learned XIX Assistant City Civil Court, Chennai and reject the plaint in OS No.2722 of 2023 on the file of Learned XIX Assistant City Civil Court, Chennai by allowing this CRP.

For Petitioner(s): M/s.K. Sasindran
For Respondent(s): Mr.Suresh Sampath for
M/s.R.Ramya for RR1 to 3
Mrs.R.Anitha, SGP For RR4 &
R5

ORDER

The revision petitioners are the defendants in a suit which has been filed by the respondents 1 and 3 herein for relief of declaration and permanent injunction and mandatory injunction. However, admittedly, it is seen that the relief of mandatory injunction has been given up by the plaintiffs pending the suit, and the suit is being proceeded with insofar as the declaration and injunction to restrain the defendants 1 to 5 from interfering with the plaintiffs peaceful possession and enjoyment of the property.



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2. The learned counsel for the petitioners would submit that there is a bar under the provisions of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971. He invited my attention to Sec. 18 and Sec. 65 as well as Rule 3 of the Tamil Nadu Slum Clearance Board Control and Management of Properties Rules 1971 and stated that the suit for declaration that the plaintiffs are the owners of the property is clearly not maintainable in view of the fact that admittedly there is no sale deed executed in favour of the defendants alone, the plaintiffs themselves.

3. In view of the aforesaid provisions, the learned counsel for the petitioners states that the property is only with the government, and until the chairman executes a registered sale deed in favour of the allottee, no right can accrue to the allottee to claim title over the subject property. He would therefore state that the declaration sought for by the plaintiffs that the plaintiffs are the absolute owners is clearly barred under the provisions of the said enactment. The learned counsel would therefore state that the claim cannot be allowed to stand in view of the admitted statutory bar, and therefore the plaint is liable to be rejected.



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4. The trial Court has dismissed the application taken out by the defendants for rejection of the plaint under Order VII Rule 11 of the CPC, finding that triable issues have arisen for consideration in the suit and no ground is made out for rejection of the plaint under any of the limits under Order VII Rule 11 of CPC.

5. The learned counsel appearing for the respondents would state that the plaintiffs are seeking the relief of permanent injunction as against the private defendants alone and no relief in so far as the official respondents is sought for and rightly they were advised to omit the prayer seeking mandatory injunction as against the official respondents, which has also been allowed by the Trial Court.

6. The learned counsel therefore states that there is no provision for rejection of the plaint in part, even assuming, without admitting, that the relief of declaration cannot be granted to the plaintiff in the light of the contentions advanced by the learned counsel for the revision petitioner.



7. I find force in the submissions of the learned counsel for the respondents. The plaintiffs have sought the following relief:

"a) Declare the plaintiffs are absolute owner of the schedule mentioned property;

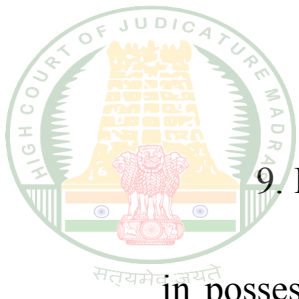
b) Grant permanent injunction against the defendants 1 to 5 herein or their men or their agents or anybody acted on their behalf and restraining them from interfering with the plaintiff's peaceful possession, enjoyment of the suit schedule property;

c) Grant mandatory injunction against the defendants 6 and 7 herein to issue sale deed for the schedule mentioned property in the name of the plaintiffs; and

d) cost of the suit and

e) Any other just and equitable relief in the interest of justice may kindly be grant and thus render justice. "

8. Relief 'c' has now been given up. The relief 'b' is for a permanent injunction to restrain the defendants 1 to 5 from interfering with the plaintiffs' possession and enjoyment of the suit property.



9. In paragraph No. 11 of the plaint, the plaintiffs have stated that they are in possession and enjoyment of the suit property as absolute owners and that they are also collecting rents from the tenants. It is also specifically averred that for more than 90 years they have been in possession and enjoyment, and the same is known to the defendants 1 to 5, and they have kept quiet because they have already sold the property to the plaintiffs. The plaintiffs have also indicated that they have an entitlement to claim adverse possession. In the light of the said reliefs sought for, which require parties to lead oral and documentary evidence, the suit cannot be rejected in part under Order VII Rule 11 of CPC.

10. It is always open to the defendants to canvass their objections, factual and legal, before the trial court and non suit the plaintiffs, insofar as the relief of declaration as well as the relief of permanent injunction if the defendants are able to show that the possession of the plaintiffs is not lawful or that they are not in possession as claimed in the plaint. No ground, therefore, is made out for rejection of the plaint. Without requiring the parties to go for a full-fledged trial, I do not find any infirmity in the findings of the order of the trial court warranting interference under Article 227 of the Constitution of India.



11. In view of the above discussions, the Civil Revision Petition is **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

24-07-2025

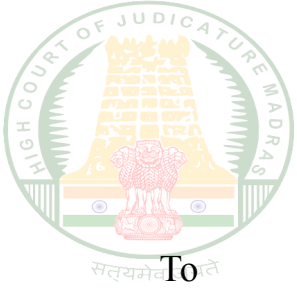
jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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P.B.BALAJI J.

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