



CRP.Nos.2185, 2187 & 2190 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 08.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.Nos.2185, 2187 & 2190 of 2024
and CMP.No.11618 of 2024

In all CRPs

Mehrunnissa (Deceased)

- 1.Chand Begum
- 2.Thahira Begum
- 3.Noori Begum
- 4.Piyari Begum
- 5.Hammeda Begum
- 6.Sulthana Begum
- 7.Niyamath Ullah
- 8.Rahman Ullah
- 9.Rahim Ullah
- 10.Gayaz Ullah
- 11.Shaketha Begum

. . . Petitioners

Versus

1.Butt Road, Jumma Masjid (Mosque)

Rep by its Secretary

Mr.Ayub Khan

Having office at No.5/64, Magazine Road

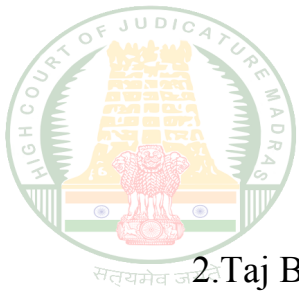
St.Thomas Mount, Chennai – 600 016

(Substituted as Mr.Ayub Khan vide Court Order dated 30.09.2024

CMP.Nos.19814, 19816 & 19817 of 2024 in

CRP.Nos.2185, 2189 & 2190 of 2024 by ADJCJ)

Mahbood Basha (Deceased)



CRP.Nos.2185, 2187 & 2190 of 2024

2.Taj Begum

3.Sami Ullah

4.Niaz

5.Dilsath Begum

. . . Respondents

Prayer in CRP.No.2185 of 2024: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order passed in E.A.No.2 of 2023 in E.A.No.155 of 2014 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

Prayer in CRP.No.2187 of 2024: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order passed in E.A.No.4 of 2023 in E.A.No.154 of 2014 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

Prayer in CRP.No.2190 of 2024: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order passed in E.A.No.3 of 2023 in E.A.No.144 of 2017 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

In all CRPs

For petitioners : Mr.R.Jayaprakash

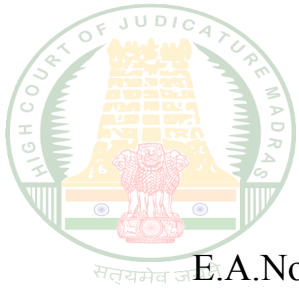
For Respondents : Mr.N.A.Nassir Hussain for R1

Mr.P.Vasantha Kumar for R2 to R5

COMMON ORDER

CRP.No.2185 of 2024 has been filed to set aside the order passed in E.A.No.2 of 2023 in E.A.No.155 of 2014 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

CRP.No.2187 of 2024 has been filed to set aside the order passed in



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E.A.No.4 of 2023 in E.A.No.154 of 2014 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

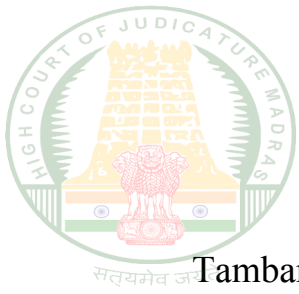
CRP.No.2190 of 2024 has been filed to set aside the order passed in E.A.No.3 of 2023 in E.A.No.144 of 2017 in EP.No.145 of 2013 dated 02.03.2024 on the file of the learned Principal District Munsif, Alandur.

2.a.E.A.No.2 of 2023 in E.A.No.155 of 2014 in EP.No.145 of 2013 in O.S.No.3306 of 1993 has been filed to set aside the order of dismissal dated 05.04.2023 and to restore the E.A.No.155 of 2014.

2.b.E.A.No.4 of 2023 in E.A.No.154 of 2014 in EP.No.145 of 2013 in OS.No.3306 of 1993 has been filed to set aside the order of dismissal dated 05.04.2023 and to restore the E.A.No.154 of 2014.

2.c.E.A.No.3 of 2023 in E.A.No.144 of 2017 in EP.No.145 of 2013 in OS.No.3306 of 1993 has been filed to set aside the order of dismissal dated 05.04.2023 and to restore the E.A.No.144 of 2017.

3. The suit has been filed by the first respondent for recovery of possession in OS.No.3306 of 1993 on the file of the learned District Munsif,



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Tambaram. Originally, the suit was dismissed vide judgment and decree dated 28.11.1994 and subsequently, in second appeal in S.A.No.1080 of 2001, the judgment and decree dated 28.11.1994 was set aside and the suit was decreed vide judgment and decree dated 28.09.2011 and the same was also confirmed in SLP.(C).No.8929 of 2012 dated 01.05.2012. Therefore, to enforce the decree and judgment, Execution Petition has been levied in EP.No.145 of 2013. Thereafter, it appears that several applications have been filed by the judgment debtor, taking note of the delay, the decree holder have filed two separate revisions in CRP.No.817 of 2020 and CRP.No.2548 of 2023 for speedy disposal and the same were disposed of directing the Executing Court to dispose of the EP within a period of three months respectively vide orders dated 25.02.2020 and 31.07.2023. Whereas, still the execution petition has not been disposed of.

4. At this stage, the applications have been taken out by the petitioners under in E.A.No.154 of 2014 to stay the operation of the main EP.No.145 of 2013, E.A.No.155 of 2014 filed under Section 47 of CPC and E.A.No.144 of



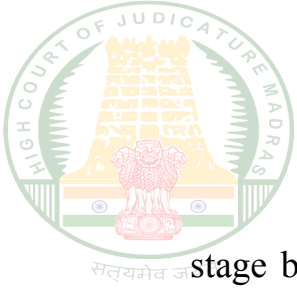
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2017 was filed to eschew the documents and mark the same through competent witnesses. When the above applications were posted on 05.04.2023 for bringing the legal heirs of the second respondent on record, since, no steps were taken, the applications was dismissed for default. Hence, the applications were filed to set aside the order of dismissal and restoring the same before the Executing Court. The Executing Court vide orders dated 02.03.2024 dismissed the applications. Hence, the revisions.

5. Heard both sides and perused the materials placed on record.

6. The stand has taken by the father/first defendant in the written statement admitting that the site belongs to the plaintiff and he was inducted as a tenant in the suit property, after his death his son/second defendant contested the matter upto Hon'ble Supreme Court in SLP.(C).No.8929 of 2012. Therefore, once the decree has been passed and the stand of the father has been also taken note, the decree is binding on the parties. The petitioners claiming to be the children born through the first wife and the second wife of the first defendant/father now cannot take a different stand particularly in the execution



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stage by filing repeated applications one after another to delay the execution proceedings. Therefore, this Court is of the view that order dismissing the applications by the Executing Court does not require interference, even on merits, Section 47 application filed by the petitioners has no legs to stand since different stand cannot be taken at every stage of litigations.

7. Accordingly, this revisions stand dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

08.07.2025

dhk

Index : Yes / No

Internet: Yes

Speaking/non speaking order

To,

1. The Principal District Munsif
Principal District Munsif, Alandur

2. The Section Officer
VR Section, Madras High Court



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N. SATHISH KUMAR, J.

dhk

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