



IN THE HIGH Court OF JUDICATURE AT MADRAS

Reserved on:22.09.2025

Pronounced on: 10.10.2025

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THE Hon'ble MR.JUSTICE P.B.BALAJI

**CRP. No.2193 of 2025
and CMP. No.12772 of 2025**

Mrs.M.Jothilakshmi

Petitioner

Vs

Thangapandi Devar (Deceased)
M.Krishnaveni (Deceased-DH2)
1.K.Vijayakumari
2.L.M.Murugesan
3.C.Muthuselvi
4.L.Venkatesan
Krishanan (Deceased-JD1)
5.Sundarakannan
6.Anthony Muthu
7.S.Kalaiselvi
8.K.Mani
K.Venkatesan (Deceased JD6)
K.Mariappan (Deceased-JD7)
9.M.Sasikala
10.M.Harini
11.M.Monika
12.V.Revathi

Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 23.04.2025 passed in E.A. SR. No.24646 of 2025 in E.P. No.1516 of 2005 and may direct the X Assistant City Civil Court at Chennai to number E.A. (SR) No.24646 of 2025 in E.P. No.1516 of 2005 and to adjudicate upon the same in accordance with law.



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CRP. No.2193 of 2025



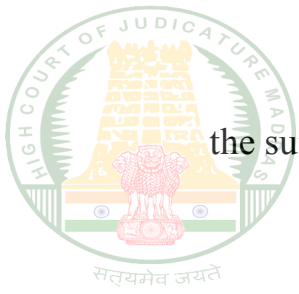
For Petitioner : Mr.S.Anil Sandeep
For Respondents : Mr.P.C.Harikumar
for M/s.P.C. Harikumar Associates

ORDER

The Obstrucker who filed Execution Application in E.A. SR. No.24646 of 2025 in E.P. No.1516 of 2005 is the Revision Petitioner, aggrieved by the dismissal of the said Application even at the stage of numbering.

2. Heard Mr.S.Anil Sandeep, learned counsel for the petitioner/Obstrucker and Mr.P.C.Harikumar for M/s.P.C.Harikumar Associates, learned counsel for the respondents/decrece holders.

3. Mr.Anil Sandeep, learned counsel for the revision petitioner would invite my attention to the order passed by the Executing Court rejecting the Obstrucker's petition, in and by a cryptic order. He would contend that the Executing Court has misconstrued the Application filed under Section 47 of Code of Civil Procedure, in the earlier rounds of litigation and merely because, the Obstrucker's husband happened to be legal heir of one of the defendants in the original suit, it would not disentitle the Obstrucker to ventilate her grievance, in order to project her individual property and independent right, which had nothing to do with



the suit property.

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4. In this regard, the learned counsel for the petitioner Mr. Anil Sandeep would invite my attention to the plaint in O.S. No.3148 of 1986 and referred to the schedule and contend that even according to the plaintiffs, the suit property had nothing to do with the property which is now claimed to be the absolute property of the revision petitioner and her husband. The learned counsel for the petitioner would also take me through the proceedings on the file of the Tamil Nadu Slum Clearance Board as well as the orders passed in the earlier Application filed under Section 47 of CPC, by one of the defendants Mr. V. Krishnan and pointing out to the fact that the suit property could have been only in respect of Plot Nos. 26A, 26B and 26C, the respondents cannot take advantage of the decree in their favour and attempt to dispossess the revision petitioner who is the absolute owner of the Plot No. 26D which has nothing to do with the suit property.

5. Mr. Anil Sandeep would also take me through the sale deed in favour of the revision petitioner which clearly mentions one of the boundaries to be Plot No. 26C, which alone was subject matter of the suit. He would therefore contend that the Trial Court ought to have numbered



the Obstruction Application and give an opportunity to the petitioner to establish that the petitioner's property was not forming part of the suit schedule property or the decree passed in favour of the respondents/decreed holders.

6. Per contra, Mr.P.C.Harikumar, learned counsel for the respondents would contend that the suit was filed by the plaintiffs, way back in the year 1986 as against three defendants. The plaintiff sought for recovery of possession of Plots 26 A, B and C. The suit admittedly came to be decreed and challenge to the decree was also unsuccessful. In fact, Section 47 Applications filed to resist execution of the decree came to be dismissed and confirmed by this Court. He would therefore contend that now it is not open to the son of the first defendant to claim that he has purchased Plot No.26D and resist the decree that has been passed in favour of his father Mr.V.Krishnan. In fact, it is the further contention of Mr.P.C.Harikumar, that though Door Numbers were not assigned at the time of lease cum sale agreement having been entered into between the parties, it is only Plot Nos.26A, 26B and 26C, which have been re-assigned as 26D, 26C and 26E and therefore, rightly, the Trial Court has found that the challenge to the decree having been made by the first defendant being unsuccessful, it is not open to the legal heirs of the first

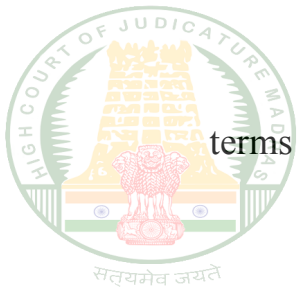


defendant to re-agitate the very same issue. He would therefore pray for dismissal of the revision.

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7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. The suit was originally filed by Thangapandi Devar, under whom the present respondents claim as successors. The said Thangapandi Devar had instituted suit against three defendants viz., V.Krishnan, Sundara Kannan and Anthony Muthu. The plaintiffs sought for recovery of vacant possession from the three defendants, in respect of the suit property which has been described as Door No.7, 6th Street, Lakshmipuram, Thiruvanmiyur, Madras-41. In the schedule to the plaint, the property has been described as land and shed bearing Old No.5, New No.7, 6th Street, Lakshmipuram, Thiruvanmiyur, Madras-41, having a total extent of 3276 sq.fts. Four boundaries to the said property have also been set out in the schedule. The suit was decreed on 14.11.2003. In order to execute the decree, the plaintiff, Thangapandi Devar filed E.P. No.1516 of 2005. The property which was sought to be delivered in the Execution Proceedings is also land and shed bearing Old No.5, New No.7, 6th Street, Lakshmipuram, Thiruvanmiyur, Madras-41, which is in



terms of the decree in favour of the respondents.

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9. The first defendant filed an Application under Section 47 of the CPC questioning executability of the decree. The said Application was dismissed by the Execution Court. In the meantime, the first defendant also filed Writ Petition in W.P. No.4992 of 2008, arraying the plaintiff Thangapandian as the third respondent. The said Writ Petition was dismissed as abated on 07.11.2016. In the said Writ Petition, the first defendant, Krishnan had sought for issuance of Writ of Certiorarified Mandamus to quash the proceedings on the file of the Tamil Nadu Slum Clearance Board in Se.Mu.Ka.No.17303/E6/07, dated 10.12.2007 and to consequently, execute sale deed in favour of the first defendant in respect of Plot No.26A, Door No.7, Nethaji Street, Lakshmipuram, Chennai-41. Though the Writ Petition came to be dismissed, counter affidavit was filed by the plaintiff as well as the Tamil Nadu Slum Clearance Board. In the counter filed by the Slum Clearance Board, they have stated that the plaintiff, Thanagapandian purchased Plot bearing Old No.74, New No.15 measuring 3276 sq.ft. and that the said Thangapandian petitioned the Board to allot the Plots to him in view of the decree passed in O.S. No.3186 of 2005. It has also been contended by the Board that the petitioner has an appeal remedy and the Writ was not maintainable.



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10. In the counter filed by the plaintiff, Thangapandian, he has stated that after having succeeded in the suit in the year 2003, the Execution Petition was resisted by the first defendant/writ petitioner by filing application under Section 47 CPC and that Tamil Nadu Slum Clearance Board has already cancelled the allotments in favour of the first defendant and the other two defendants in the suit. In the meantime, the plaintiff, Thangapandian also filed a revision in CRP. No.4170 of 2011, challenging the dismissal of an Application filed in I.A. No.21428 of 2009 in the very same suit in O.S. No.3148 of 1986, in and by which the petitioner sought amendment of the schedule. It was the contention of the plaintiff, Thangapandian that the measurements in the schedule to the plaint were wrongly mentioned as 34 feet instead of 84 feet on East to West.

11. On the date of deciding the said revision in CRP. No.4170 of 2011, the revision that was filed challenging dismissal of Section 47 CPC Applications, had also been dismissed on 21.08.2009, finding that the amendment application had been dismissed only on the ground that the revisions filed by the defendants challenging the orders in the Section 47 Petition were pending. This Court taking note of subsequent events



allowed the revision and directed the amendment application to be decided afresh on merits and in accordance with law. It is therefore, the contention of Mr.P.C.Harikumar, that the revision petitioner is only claiming under Krishnan, being a daughter in law and he would also invite my attention to the sale deed on which reliance is placed by the revision petitioner. I find from the said sale deed that the sale deed has been executed in favour of the revision petitioner and her husband, Mani who is admittedly one of the legal heirs of the first defendant, V.Krishnan. In fact, the Trial Court has noticed the same while proceeding to reject the application filed by the revision petitioner as an Obstrueter.

12. Firstly, it is to be noticed that admittedly, the suit property pertains to Plot Nos.26A, 26B and 26C. Plot No.26D was never subject matter of the suit. Though it was contended by Mr.P.C.Harikumar, that the very same plots 26A, 26B and 26C have been re-assigned as Plot Nos.26C, 26D and 26E, I find from the sale deed executed in favour of the revision petitioner and her husband that one of the boundaries to the said Plot No.26D, which was conveyed in favour of the revision petitioner and her husband is 26C. Therefore, the contention of Mr.P.C.Harikumar, the learned counsel for the respondents that the very same Plot Nos.26A, 26B and 26 C have been re-assigned Plot Nos.26C,



26D and 26E cannot be countenanced.

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13. In fact, it is also relevant and significant to note that the suit property is described as Old No.5, New No.7, whereas the case of Obstructor is that the property which has been purchased by her husband is Plot No.26D and bears Door No.7/19. In the plaint, there is no reference to Plot Nos.26A, 26B and 26C. The sale deed in favour of the petitioner/Obstructor is a registered sale deed and it also mentions that the petitioner and her husband had entered into a lease cum sale agreement on 01.05.1994 and the sale deed is being executed only in pursuance of the said lease cum sale agreement. The sale deed is dated 06.09.2017 and it mentions Old No.7, New No.19 as the Municipal Door Number and the property which is subject matter of the conveyance as Plot Nos.26D. As already discussed, one of the boundaries viz., the western boundary is mentioned as Plot No.26C. In fact, at the request of the respondents, the Tamil Nadu Slum Clearance Board has cancelled the allotments in respect of Plot Nos.26A, 26B and 26C.

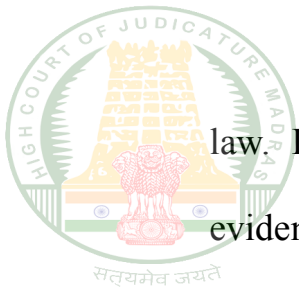
It is the contention of Mr.P.C.Harikumar that in view of the amendment being ordered and the measurements now reflecting 84 ft instead of 34 fts., it covers Plot No.26D also. It was never the case of the



respondents that Plot No.26D was forming part of the 3276 sq.fts. which is the suit property and also the decree in favour of the respondents.

Therefore, it is a fit case where the petitioner ought to have been given an opportunity to raise all her objections as an Obstructor. Merely because, the petitioner's husband K.Mani was the son of the first defendant Krishnan, it was not a ground to dismiss the Obstruction Petition. The Executing Court failed to see that the present obstruction petition is not one claiming as legal representative of the first defendant Krishnan. The revision petitioner is attempting to canvass her independent right and filed the Application. The dismissal of Section 47 CPC Applications filed by the defendants in the suit has no connection or bearing to the claims made by the revision petitioner. Without considering all these aspects, the Executing Court, in a summary fashion, has rejected the Obstruction Petition.

15. For all the above reasons, I am inclined to set aside the order passed in E.A. SR. No.24646 of 2025 in E.P. No.1516 of 2005, dated 23.04.2025. The Executing Court viz., the Judge, X Assistant City Civil Court at Chennai shall number the said Application and shall give an opportunity to the respondents to file a counter to the said Application and the Application shall be decided on merits and in accordance with



law. It shall be open to both parties to lead oral and documentary evidence and the Executing Court shall dispose of the said Application within a period of three (3) months. Any observations that may have been made in this order shall not prejudice the mind of the Executing Court and the Executing Court shall decide the Obstruction Application on merits and in accordance with law.

16. Accordingly, the Civil Revision Petition is allowed with the above directions. Consequently, connected Miscellaneous Petition is closed. No costs.

10.10.2025

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Index : Yes / No
Internet : Yes / No

To:
The Judge,
X Assistant City Civil Court at Chennai

P.B.BALAJI, J.,



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Pre-delivery order in
CRP. No.2193 of 2025
and CMP. No.12772 of 2025

10.10.2025