



CRP(NPD) No. 2834 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CRP(NPD) No.2834 of 2019

and

CMP No.18549 of 2019

Sakunthala

... Petitioner

Vs.

1. A.M.Avudaiappan

2. N. Krishnamoorthy

... Respondents

Prayer : Civil Revision petition has been filed under Section 115 of the CPC to set aside the order made in E.P.No.21 of 2019 in RCOP No.18/16 made by the learned District Munsif Judge, Thiruvotriyur dated 01.08.2019.

For Petitioner : Mr. S. Pon Jeganathan

For respondents : Mr. R.Suresh Kumar,
for R1

: R2- Court notice returned as
No such person.



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ORDER

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Challenge has been made to the order passed in execution petition despite returning the application filed under Order XXI Rule 97 CPC to implead the revision petition as obstructor.

2. The first respondent had filed a rent control proceedings in RCOP. No.18 of 2016 on the file of the District Munsif, Thiruvottiyur, as if he is the owner of the property, against the 2nd respondent/tenant for eviction stating that there is a jural relationship. The Rent Court vide order dated 07.12.2018, ordered eviction. Thereafter, E.P.No.21 of 2019 was filed by the first respondent for delivery of vacant possession.. At this stage, an application in E.A.No.6 of 2019 has been filed by the revision petitioner under Order XXI Rule 97 CPC claiming that he is the owner of the property and the same was dismissed by the Executing Court vide order dated 29.08.2019. On 01.08.2019, the impugned order of delivery has been passed and the matter is still pending for taking steps. Against which, the present revision has been filed.

3. I have heard both sides and perused the materials available on

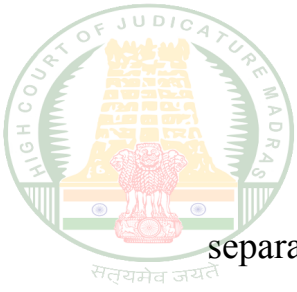


records carefully.

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4. Though the first respondent would contend that he has purchased the property and that the subject property is only a poramboke land, the title deed is not with him. However, the same does not arise in this revision. Whereas, it is the admitted case of the objector/revision petitioner that he is in possession of the property and there is no landlord and tenant relationship between the first respondent and the 2nd respondent. The tenant is none other than the grand daughter's husband of the revision petitioner.

5. On perusal of the order placed before this Court clearly indicates that the application under Order 21 Rule 97 CPC was dismissed as infructuous. The Execution Court, in fact, shirked his responsibility in deciding the said application on merits. If any objection is made under Order 21 Rule 97 or any response or obstruction to possession of the immovable property is made by any third party, the same has to be decided by the Trial Court. All questions arising between the parties to the proceedings on an application filed under Order 21 Rule 97 or Rule 99 shall be determined by the Court dealing with application and not by



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separate suit. The Executing Court has jurisdiction to go into all the disputes, particularly, with regard to the response to the objections made by any of the parties.

6. In view of the above, this Civil Revision Petition is allowed and the impugned order dated 01.08.2019 passed by the Executing Court for delivery stands set aside. The Executing court is directed to restore the E.A.No.6 of 2019 and decide the said application on his own merits, within a period of two months from the date of receipt of a copy of this order and thereafter, if the Executing Court finds that the application has no merits, then proceed with issuing delivery order. No costs. Consequently, connected miscellaneous petition is closed.

25.06.2025

mrp

To

1. The District Munsif Court,
Thiruvotriyur.

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N. SATHISH KUMAR, J.

mrp

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