



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP. No.4585 of 2025
and CMP. Nos. 23257 & 23260 of 2025

Rev.Father Paul Moses
S/o.Paul Raj
Managing Trustee of
Rev Father Gethsemane Gospel Mission,
No.4/216, MGR Salai,
Palavakkam, Chennai – 600 041.

... Petitioner

Vs.

1.Mr.H.A.Easwara
2.Mr.G.Dhanasekaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the impugned order dated 17.06.2025 passed by the learned Subordinate Judge, Alandur in I.A. No.73 of 2021 in O.S. No.31 of 2019.

For Petitioner	: Mr.Karthikeyan, for K.M.Mrithun Jayan
For Respondents	: Mr.M.S.Krishnan, Senior Counsel for Mr.V.Srikanth for R1 No appearance for R2

ORDER



WEB COPY

The third party to the suit in O.S. No.403 of 2019 on the file of the Sub Court, Alandur, is the revision petitioner. The petitioner challenges the order passed by the learned Sub Judge, Alandur in I.A. No.73 of 2021, in O.S. No.31 of 2019.

2.The fulcrum of the case of the revision petitioner is that the compromise between the parties is vitiated by fraud, collusion and violation of mandatory legal provisions and because of the compromise, the right and interest of the revision petitioner is being seriously prejudiced.

3. I have heard Mr.Karthikeyan, learned counsel for the revision petitioner and Mr.M.S.Krishnan, learned Senior Counsel for Mr.V.Srikanth, learned counsel for the first respondent. Despite service of notice, the second respondent, who is the defendant in the suit in O.S. No.31 of 2019, has not entered appearance.

4. Mr.Karthikeyan, learned counsel for the petitioner, taking me through the plaint averments in O.S. No.31 of 2019 and also various other documents concerning the suit property would submit that the plaintiff did



not even establish valid title to the suit property at his hands and that several legal proceedings have been initiated using the name of the dead person, who is the brother of the plaintiff, the first respondent herein.

Mr.Karthikeyan would further state that even in the plaint as well as all the pleadings filed by the defendant in the suit, there is a clear reference to the fact that the revision petitioner was running a Church in the suit property.

5. The learned counsel would further state that high handedly, based on the compromise recorded before the Lok Adalat, the revision petitioner has been forcibly dispossessed from the suit property, with the aid of police force. The learned counsel would therefore state that fraud vitiates all acts and the petitioner ought to have been permitted to re-open the suit in O.S. No.31 of 2019. It is also brought to my notice by the learned counsel for the petitioner Mr.Karthikeyan, the revision petitioner has already filed O.S. No.310 of 2024, which is pending before the District Munsif Court, Sholinganallur. He would state that as long as the Lok Adalat award stands, the petitioner will not be in a position to effectively prosecute the suit and get relief.

6.The learned counsel also places reliance on the decisions of the Hon'ble Supreme Court in *K.Srinivasappa and others Vs. M.Mallamma and*



others, reported in, (2022) 7 SCC 460, where the Hon'ble Supreme Court held that a compromise decree recorded by Lok Adalat, in the absence of allegation of fraud cannot be interfered with and also the decision in *Sakina Sultanali Sunesara (Momin) and others Vs. Shia Imami Ismaili Momin Jamat Samaj and others*, reported in AIR 2020 Gujarat 12 Full Bench, where the Full Bench of the Gujarat High Court, after considering the entire gamut of case law on the field, held that an aggrieved party who is virtually and adversely affected by the decree passed by the Court on the basis of compromise arrived at between the parties to the suit can certainly file an appeal with the leave of the Appellate Court under Section 96(1) of CPC, as such a decree would not be a consent decree insofar as the third party appellant is concerned and the bar under Section 96(3) CPC could not be made applicable to him.

7. Per contra, Mr.M.S.Krishnan, learned Senior Counsel appearing for the first respondent would submit that the petitioner has no iota of right or interest in the suit property and the petitioner was a party to writ proceedings before the Division Bench of this Court where he was represented by Counsel as well and in his presence, the Division Bench of this Court, after considering the award passed by the Lok Adalat and the



WEB COPY

consent decree passed by the Lok Adalat, finding that the revision petitioner himself was only a tenant of the defendant in the present suit and that he had handed over possession to the plaintiff, held that he has no *loco standi* to question the right of the petitioner to the suit property. It was also noticed that the revision petitioner has not produced any documents to substantiate that he is the owner of the suit property and mere pendency of suit for bare injunction in O.S. No.310 of 2024 would not have any bearing on the plaintiff who is the absolute owner of the suit property. The Hon'ble Division Bench by order dated 29.04.2022, directed the official respondents to remove the unauthorized constructions put up by the defendant in the suit property, without planning permission, within a period of four weeks. The revision petitioner took up the matter on appeal to the Hon'ble Supreme Court in Special Leave Appeal (Civil) No.10699 of 2022 and by order dated 16.06.2022, the Hon'ble Supreme Court dismissed the Special Leave Petition.

8. In the light of the above, having already agitated the very same contentions before this Court in the writ proceedings and being unsuccessful, it is only an attempt to re-agitate the very same issue by seeking to re-open the compromise decree. At the same time, as held by the



Hon'ble Full Bench of the Gujarat High Court, there is no bar for a third party to establish fraud and challenge the compromise decree. It is however permissible only by way of a challenge to the decree by way of a First Appeal under Section 96 of CPC. The pending suit in O.S. No.310 of 2024 is only for a permanent injunction and there can be no impediment for the petitioner to choose to pursue the said litigation at his risk and peril. However, if at all the petitioner intends to challenge the compromise decree, the only avenue open to him is to prefer an appeal under Section 96 of CPC, that too, after satisfying the Appellate Court, he is entitled to leave to prefer the appeal, as a party being aggrieved by the consent decree.

9. In view of the above, I do not see any merit in this revision. The Trial Court has rightly found that the petitioner is not entitled to re-open the compromise decree and dismissed I.A. No.73 of 2021 in O.S. No.31 of 2019. The same does not warrant interference in revision. However, as already observed, it is open to the revision petitioner to challenge the compromise decree by filing a regular First Appeal, subject to establishing that the petitioner's right have been seriously prejudiced and that leave would have to be necessarily granted to the petitioner, to even permit him to challenge the consent decree, if any such application is filed, the Appellate Court shall



deal with the same on merits and in accordance with law.

WEB COPY

10. With the above observations, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

20.11.2025

Speaking/Non-speaking : Yes/No
Index : Yes / No
rkp

To
The Subordinate Judge, Alandur

P.B.BALAJI.J.,

rkp



WEB COPY



CRP. No.4585 of 2025
and CMP. Nos. 23257 & 23260 of 2025

20.11.2025