



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP.No.5394 of 2025

and

CMP.No.27166 of 2025

M/s.Billroth Hospital Limited
(now known as Billroth Hospitals
Private Limited)

Represented by its Director

Mr.Rajesh jeganathan

No.43, Lakshmi Talkies Road,

Shenoy Nagar, Chennai – 600 030.

...

Petitioner

Vs.

1.M/s.Integratel Finance Company Limited

No.12, North Crescent Road,

T.Nagar, Chennai 600 017.

Rep.by its Authorised Signatory A.Heam Jothi.

2.Dr.K.Padmanabhan

3.P.Vijayalakshmi

...

Respondents

PRAYER: The Civil Revision Petition filed under Section 115 of Civil Procedure Code, 1908 to allow the civil revision petition, by setting aside the fair order dated 24.10.2025, made in un-numbered E.A., vide ATN 20220012141D202500523 in E.P.No.1693 of 2024 on the file of the IX Assistant Judge, City Civil Court at Chennai, with direction to dispose the E.A., filed under Section 47 of CPC in accordance with law.

For Petitioner

...

Mr.AK.Sriram

Senior Counsel

for Mr.A.Thayaparan

For Respondent

...

Mr.Najeeb Usman Khan

No.1



WEB COPY

ORDER

Heard Mr.AK.Sriram, learned Senior Counsel appearing for the petitioner/judgment debtor and Mr.Najeeb Usman Khan, learned counsel appearing for the first respondent/decree holder.

2.The learned Senior counsel appearing for the petitioner submits that the suit was filed before this Court on the Original Side, against a company by name M/s.Kay Peekay Medical Services P Ltd; Pending the said suit, which was subsequently transferred to the file of City Civil Court, Chennai, this Court approved a Scheme of Amalgamation and the said company M/s.Kay Peekay Medical Services P Ltd., was taken over by Billroth Hospital Private Limited. The Scheme of Amalgamation was also approved by this Court on 16.02.2008. Pursuant to the said Scheme of Amalgamation, the suit has been decreed in the name of the former company M/s.Kay Peekay Medical Services P Ltd., without substituting the transferee namely the revision petitioner herein. The execution petition filed to recover the amounts due under the decree in O.S.No.3173 of 2014 was initially returned on the ground that the petitioner has not suffered any decree in the suit. The first respondent has thereafter filed an application in E.A.No.1 of 2024 for accepting the cause title.



WEB COPY

3.The learned Senior counsel would invite my attention to the one word order passed by the Executing Court allowing the said application. In order to set aside the ex parte decree in the suit, an application was filed by the petitioner in unnumbered E.A.(ATN20220012141D202500437). However, the Executing Court rejected the said application, even at the numbering stage, on the ground that the Court had not passed any exparte order against the judgment debtor and therefore, the petition was not maintainable.

4.Despite compliances made stating that the application was very much maintainable as it has prejudiced the interest of the petitioner, the Executing Court reiterated its earlier order and rejected the application as not maintainable, holding that the order accepting the cause title in E.A.No.1 of 2024 was only an administrative order.

5.Thereafter, the petitioner has filed an application under Section 47 of the Code of Civil Procedure raising several objections to the executability of the decree itself. The trial Court proceeded to dispose of the said application, even at the maintainability stage, in a summary manner, though after holding an enquiry.

6.The learned Senior Counsel would invite my attention to the



WEB COM

petition filed under Section 47 of CPC wherein as many as five substantial objections had been taken for challenging the executability of the decree.

He would therefore state that the Executing Court had clearly fell in error in going into the merits even at the stage of maintainability, thereby depriving the petitioner of an opportunity to challenge the executability of the decree. Therefore, he prays for the CRP being allowed and also requests this Court to direct the application to accept the cause title also to be reheard, in the presence of the petitioner.

7.Per contra, the learned counsel for the first respondent/decreed holder would submit that even in the scheme, the transferee company, namely the revision petitioner has admittedly taken over all the assets and liabilities of the defendants in the suit and therefore, it is no defence that the transferee company namely the revision petitioner is not liable to pay the amount. He would also invite my attention to the lawyer's notice issued, where also, there is a admission with regard to the liability due to the decree holder.

8.However, all these contentions were on the merits of the matter



WEB.COM

which I am not able to countenance for the simple reason that these cannot be gone into for the first time in a revision petition. When the executing Court was confronted with all these issues by way two applications namely one application to set aside the order accepting the cause title and in the Section 47 petition, the Executing Court, ought to have followed the procedure prescribed under law and disposed of the said applications after due enquiry and giving fair opportunity to both the parties.

9. However, as already indicated, the petition to set aside the order accepting the cause title has been allowed by an unreasoned order and in the impugned order, strangely, the Executing Court has considered the said order as a speaking order.

10. I am unable to countenance the approach of the Executing Court. All the contentions of the petitioner are certainly falling within the purview of Section 47 CPC and therefore the Executing Court should have numbered the application and proceeded to decide the Section 47 petition in accordance with the law, instead of rejecting it even at the numbering stage.

11. Equally, the order accepting the cause title would also come in the



way of petitioner in the section 47 petition, since the decree has been passed against the transferor company subsequent to the Scheme of amalgamation, which was earlier back in 2008.

12. In the light of the above, I am inclined to dispose of the revision in the manner following;

1. The order in the Section 47 petition dated 29.10.2025 in unnumbered E.A. / 2025 in EP No.1693 of 2024 in ATN 20220012141D202500523 is set aside.

2. The order dated 30.04.2025 in ATN 20220012141D202500449 is also set aside.

3. The Executing Court shall number both the applications and shall permit the first respondent decree holder to file a counter and shall thereafter proceed to decide both the applications on merits and in accordance with law, preferably within a period of three months.

In view of the above, the civil revision petition stands allowed. No



costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Index : Yes/No

03.11.2025

Internet: Yes/No

sms

To

1.The IX Assistant Judge, City Civil Court at Chennai,

2.M/s.Integratel Finance Company Limited

No.12, North Crescent Road,

T.Nagar, Chennai 600 017.

Rep.by its Authorised Signatory A.Heam Jothi.

P.B. BALAJI,J.,

sms



WEB COPY



CRP.No.5394 of 2025
and
CMP.No.27166 of 2025

03.11.2025