

*C.R.P(MD)No.1006 of 2020*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.02.2025**

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**C.R.P(MD)No.1006 of 2020**

**and**

**C.M.P(MD)No.6528 of 2020**

Khaja Mohideen

... Petitioner/Petitioner/  
3<sup>rd</sup> Party

Vs.

1.Ali Hussain

... Respondent/1<sup>st</sup> Respondent/  
Petitioner/Plaintiff

2.Habibullah

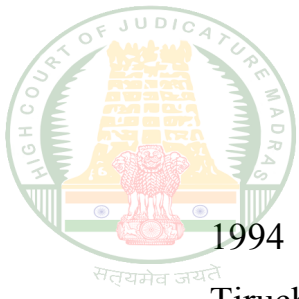
3.Rasheeda Begum

... Respondents/Respondents 2&3/  
Respondents 1&2/Defendants 1&2

4.Ayisha Begum

... Respondent/4<sup>th</sup> Respondent/  
3<sup>rd</sup> Respondent/3<sup>rd</sup> Defendant

**PRAYER:** Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the impugned order, dated 30.01.2020 passed in E.A.No.63 of 2016 in E.P.No.554 of 1999 in O.S.No.449 of



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1994 on the file of the learned I Additional District Munsif, Tiruchirappalli and consequently directing the learned Court to restore the possession of the third party/petitioner.

For Petitioner : M/s.T.Banumathy

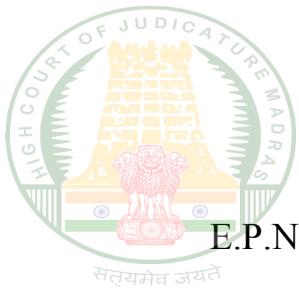
For R1 : Mr.M.Ashok Kumar

For R2 - R4 : No Appearance

### **ORDER**

The present revision petition has been filed by a third party to the suit in O.S.No.449 of 1994 challenging the dismissal of his application filed under Order XXI Rule 99 of Code of Civil Procedure.

2. The 1<sup>st</sup> respondent in the revision petition has filed O.S.No.449 of 1994 for the relief of mandatory injunction directing the defendants to let out Shop No.400, Big Bazaar, Tiruchirappalli only to the plaintiff and for a permanent injunction restraining the defendants from leasing out the said shop to any other person except the petitioner. The suit was decreed ex parte on 18.07.1996. The 1<sup>st</sup> respondent herein had filed

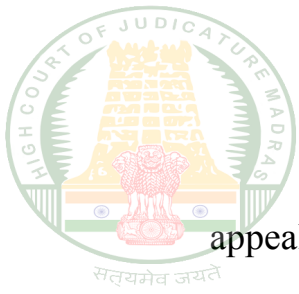


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E.P.No.554 of 1999 seeking possession of the property. Delivery was ordered by the trial Court and possession was also taken over by the plaintiff therein.

3. The petitioner herein claiming to be in possession of the said property had filed E.A.No.63 of 2016 seeking to decide his legal right and possession over the suit schedule property and to dismiss the E.P. The said application was filed under Section 47 and under Order XXI Rule 99, 101 of C.P.C. After enquiry, the said application was dismissed by the Executing Court. Challenging the same, the present revision petition has been filed.

4. Admittedly, the revision petitioner herein is a third party to the suit. Therefore, an application under Section 47 of C.P.C is not maintainable and the application filed in E.A.No.63 of 2016 should only be construed to be an application under Order XXI Rule 99 of C.P.C. When such an application is dismissed, it is a deemed decree under Order XXI Rule 103 of C.P.C. Therefore, the petitioner should only file an



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appeal against the said order and the present revision petition is not maintainable.

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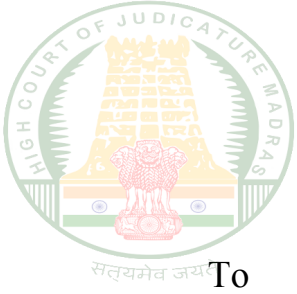
5. The revision petitioner had given an undertaking before this Court in C.R.P(MD)No.87 of 2008 that he would vacate the premises and hand over the same. Contrary to the said undertaking, the present application in E.A.No.63 of 2016 has been filed. Therefore, this Court is of the considered opinion that there are no merits in the revision petition.

6. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

**04.02.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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To  
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- 1.The I Additional District Munsif,  
Tiruchirappalli.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.VIJAYAKUMAR ,J.**

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Order made in  
C.R.P(MD)No.1006 of 2020

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