



WEB COPY

CRP No. 803 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 803 of 2026 and

CMP No.4314 of 2026

1. Dilwar Hussian (Deceased) 1. Mir Dilbar
Hussain, No. 48, Rangasi Street
Perambur, Chennai 011.
2. Mir Dildar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011
3. Zahira Begum
No. 48, Rangasi Street
Perambur, Chennai 011
4. Amtul Sainab
No. 48, Rangasi Street
Perambur, Chennai 011
5. Dilshath Begum, W/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011
6. Hasina Begum, D/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011
7. Zainab Begum, D/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011
8. Parveen Begum, D/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011



9. Jameel Hussain, S/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011

10. Zaira Begum, D/o. Mir Dilwar Hussain
No. 48, Rangasi Street
Perambur, Chennai 011

..Petitioner(s)

Vs

1. Ansar Basha, S/o. Mehboob Basha
No. 181A, Bharat Rajiv Gandhi Nagar
4th Street, Kolathur Chennai 99

2. Mir Mushtaq Hussain
No. 48, Rangasi Street
Perambur, Chennai 011

3. Mir Imdad Hussain
No. 48, Rangasi Street
Perambur, Chennai 011

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 29/08/2025 passed in I.A. No. 2 of 2024 in O.S. No. 736 of 2013 on the file of the V Assistant Judge, City Civil Court, Chennai.

For Petitioner(s): Mr. P.Sidharthan

For Respondent(s): Mr.K.Manikuyil
for P.Vijendran for R1/caveator.



ORDER

This Civil Revision Petition has been filed challenging the order passed by the Trial court, dismissing the application filed by the petitioners seeking rejection of plaint.

2. The first respondent herein /plaintiff filed a suit in O.S.No.736 of 2013 seeking permanent injunction against the petitioners and others. The petitioners, who were arrayed as defendants 1 to 10 in the said suit, filed the instant application seeking rejection of plaint. According to the petitioners, they already filed a suit in O.S.No.7335 of 1996 on the file of City Civil Court, Chennai against the third parties, seeking declaration of title and delivery of possession, after removing the superstructure standing in the suit property and for other reliefs. The said suit was decreed as prayed for on 13.04.2006. Thereafter, the respondents filed an execution petition in E.P.No.90 of 2007 on the file of City Civil Court, Chennai to execute the decree for possession. In the said execution petition, various applications have been filed by the third parties claiming right over the suit property. The applications were dismissed by the execution court and the same were challenged before this court in CRP Nos.2043, 2044 and 2045 of 2024. The said civil revision petitions were dismissed by this court on 22.01.2025 with a direction to the executing court to take steps to execute the decree so as to enable the decree holders to see the



fruits of the decree at the earliest. In the interregnum period, the first respondent herein/plaintiff, illegally claiming right over the very same property, filed the instant suit seeking bare injunction. Therefore, the petitioners filed the instant application seeking rejection of plaint on the ground that the present suit is barred by principles of resjudicata and limitation. The said application was dismissed by the Trial Court by holding that the question of resjudicata and limitation could not be decided at this stage, as it cannot be decided only based on plaint averments. Aggrieved by the same, the petitioners have come before this court.

3. The learned counsel for the petitioners would submit that even though the petitioners obtained a decree for declaration of title and possession as early as on 13.04.2006 and they filed execution petition in the year 2007, they are unable to enjoy the fruits of the decree, due to the obstructions by various persons and the present suit filed by the first respondent is also an attempt to frustrate the decree obtained by the petitioners.

4. A perusal of the plaint would indicate that the first respondent/plaintiff claimed that he is in possession of the suit property and he also filed certain documents along with the plaint to establish his possession. Whether the first respondent is in possession of the suit property or not is a question of fact, which requires evidence. Therefore, the plaint cannot be rejected outrightly.



Admittedly, the first respondent/plaintiff was not a party to the earlier suit in O.S.No.7336 of 1996. Therefore, based on the decree obtained by the petitioners against other persons, we cannot reject the plaint filed by the first respondent. In any event, the first respondent seeks only a decree for injunction to protect his alleged possession. Further, pendency of the present suit will not be a hindrance to the petitioners to execute the decree obtained by them in O.S.No.7335 of 1996. In case, the execution of the decree is obstructed by the first respondent by setting up any independent title, the question of independent title can also be gone into by the execution court. Therefore, I do not find any ground to reject the plaint, as the points raised by the petitioners are not coming within the four corners of Order VII Rule 17 of CPC.

5. Accordingly, this civil revision petition is dismissed. It is open to the petitioners to proceed with the execution of the decree in O.S.No.7335 of 1996. There shall be no order as to costs. Connected miscellaneous petition is closed.

18-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MST

To

The V Assistant Judge,
City Civil Court, Chennai.



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S.SOUNTHAR, J.

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