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CRP Nos. 1732 and 2003 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP Nos. 1732 and 2003 of 2026
and CMP Nos.7930 and 8912 of 2026**

1. M.Sivakumar
S/o.Late K.Munusamy, No.13, Abdul
Khader St, Mount Road, Chennai 002.

Petitioner in both the revisions

Vs

1. Ameerunnissa Begum Sahiba
Endowment
Rep.by its President, H.M.Muneeb, No.76,
Pycrofts Road (Bharathi Salai), Triplicane,
Chennai 005.

Respondent in both the
revisions

PRAYER IN CRP No. 1732 of 2026

Civil Revision Petition filed under Art.227 of Constitution of India, praying to set aside the fair and Decreetal order dated 8.1.2026 passed by the Learned X Assistant City Civil Judge, Chennai in EA.SR.No.88026/2025 in EA.No.4/2025 in EP.No. 3698/2022 in OS.No. 3189/2011.

PRAYER IN CRP No. 2003 of 2026

Civil Revision Petition filed under Sec. 115 of C.P.C., praying to set aside the



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fair and decretal order dated 05-02-2026 passed in EA.No.4 of 2025 in EP.No.3698 of 2022 in OS.No.3189 of 2011 on the file of the X Asst. City Civil Court, Chennai.

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For Petitioner(s): Mr.Prakash Goklamey
For Mr.S.Giri Tharan

For Respondent(s): L.Gavaskar

COMMON ORDER

CRP No. 1732 of 2026

Challenging the impugned order passed in E.A.SR.No.88026 of 2025 in E.A.No.4 of 2025 in E.P.No. 3698 of 2022 in O.S.No.3189 of 2011 by the learned X Assistant Judge, City Civil Court, Chennai, the Revision Petitioner/2nd Judgment Debtor preferred this Civil Revision Petition.

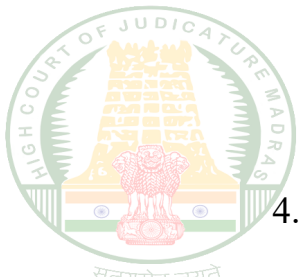
2.Before the Executing Court, the Revision Petitioner filed an application under Sec.58 and 60 of BSA read with Sec.151 of C.P.C. praying to admit the photocopies as valid secondary evidence and mark the same as exhibits in E.A.No.4 of 2025, direct the prompt continuation of re-examination and cross-examination on these documents and ensure the disposal of E.A.No.04 of 2025 on merit and to allow the production of certified copies of said documents at a later stage. Even before numbering



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the application filed under Sec.47 of C.P.C. in E.A.SR.No. 35226 of 2023, the Executing Court has rejected the application stating that the petitioner has produced only the xerox copies of the documents and has not chosen to approach the concerned authorities to get the actual source of the documents, without which, it cannot be accepted. Aggrieved over the same, the present revision has been filed.

3. Learned counsel for the petitioner submits that the on earlier occasion. Revision was filed in in CRP No.1748 of 2025. wherein, a direction was issued by this court to dispose the application after giving proper opportunity to both parties to adduce oral and documentary evidence. Accordingly, Section 47 application in E.A.No.4 of 2025 was filed to receive the additional documents as secondary evidence. In spite of that, Sec.47 application was dismissed by the Executing Court in a hurried manner without giving proper opportunity to the Judgment Debtor to produce the document. Therefore, after the dismissal of Sec.47 application in E.A.No.4 of 2025, the Executing Court has passed an order of delivery. Further, before the Executing Court, they have filed the application to receive the documents, but without numbering, it was rejected. Aggrieved over that, this Civil Revision Petition has been filed.



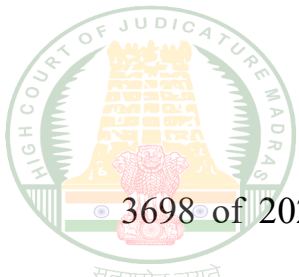
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4. The learned counsel for revision petitioner would submit that those documents are very much necessary for the Judgment Debtors to prove their defence, since already decree was obtained exparte before the trial court by the decree holder. But, without giving fair opportunity, the Executing Court has proceeded with the matter. Hence, he prayed to set aside the proceedings in the Execution Petition.

5. The learned counsel for respondent raised objections stating that the xerox copy alone was produced on the side of the petitioner which was rightly rejected by the executing court and however, opportunity was given to him, but he has not produced the originals during the enquiry in Section 47 application. Learned counsel also submits that the suit for ejectment was filed in the year 2011 and all these years, he was dragged on with the proceedings, since his claim under Sec.47 of C.P.C. is not sustainable one and his ownership is also admitted. Therefore, the Executing Court has rightly rejected the application filed in E.A.SR No.88026 of 2025, which requires no interference.

CRP No.2003 of 2026 :

6. Challenging the impugned order passed in E.A.No.4 of 2025 in E.P.No.



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3698 of 2022 in O.S.No.3189 of 2011 by the learned X Assistant Judge, City Civil Court, Chennai, the Revision Petitioner/2nd Judgment Debtor preferred this Civil Revision Petition.

7.Before the Executing Court, the Revision Petitioner filed an application under Sec.47 of C.P.C. to dismiss the execution petition. Even before numbering the same, the Executing Court has rejected the application, which was already challenged before this court, wherein, a direction was issued by this court to dispose the application after giving proper opportunity to both parties. In spite of that, Sec.47 application filed in E.A.No.4 of 2025 was dismissed by the Executing Court in a hurried manner without giving proper opportunity to the Judgment Debtor to produce the document. Moreover, after the dismissal of Sec.47 application in E.A.No.4 of 2025, the Executing Court has passed an order of delivery. Aggrieved over that, this Civil Revision Petition has been filed.

8.The learned counsel for revision petitioner would submit that already the decree was obtained ex parte before the trial court by the decree holder. But, without giving fair opportunity, the Executing Court has proceeded with the matter and



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dismissed the application as such is erroneous one. Hence, he prayed to stay the proceedings in the Execution Petition.

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9. The learned counsel for respondent raised objections stating that the suit for ejectment was filed in the year 2011 and all these years, he was dragged on with the proceedings, since his claim under Sec.47 of C.P.C. is not sustainable one and his ownership is also admitted. Therefore, the Executing Court has rightly dismissed the application filed in E.A.No.4 of 2025, which requires no interference.

10. I have considered the submissions made on both sides and perused the materials available on record.

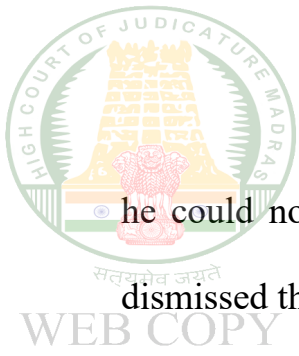
11. As on date, challenging the order passed in E.A.SR.No.88026 of 2025, the 2nd Judgment Debtor preferred this Civil Revision Petition. Admittedly, before the trial court, an ex parte decree was obtained by the Decree Holder in O.S.No.3189 of 2011. So, E.A.No.4 of 2025 was filed by the petitioner under Sec.47 of C.P.C, wherein, this Court has directed to dispose of the application by giving opportunity to both the parties to adduce oral and documentary evidence and during the course of enquiry, the petitioner



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has filed application in E.A.SR.No.88026 of 2025 seeking to admit the photocopies of the documents as valid secondary evidence and mark the same as exhibits. But without numbering the same the Executing Court has dismissed holding that xerox copy alone was produced and proper explanation was not given for not producing original documents.

12. On perusal of the records which relied on by the petitioner shows that (1) Photocopy of letter of Tamil Nadu Wakf Board dated 04.02.2009, Photocopy of Letter to Tahsildar, Mylapore dated 17.02.2009, (3) Photocopy of Report received from Public Information Officer, Collectorate, Chennai and (4) Photocopy of letter of District Collector to the Commissioner of Corporation of Chennai dated 24.08.2012, (5) Photocopy of Extract of Madras Town Survey Register, (6) Photocopy of Interim Order passed by the Chief Executive Officer, Tamil Nadu Wakf Board dated 17.03.2023 (7) Photocopy of final order passed by the Chief Executive Officer, Tamil Nadu Wakf Board dated 30.03.2023, (8) Photocopy of Resolution passed in Emergency Committee Meeting dated 07.06.2023 , (9) Web Copy of General Power of Attorney authorising H.M.Muneeb dated 13.06.2023 and (10) Photocopy of Death Certificate of K.Ramesh (JD-4) dated 07.03.2025. During cross examination of this petitioner by the respondent,



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he could not say about originals but he filed only xerox copies. Therefore the court dismissed the application as originals were not produced.

13. As per the direction of this Court, full opportunity is to be given to the petitioner to prove his claim since he approaches the Court by filing an application under Section 47 of Civil Procedure Code. As on date, the petitioner relied on the photocopies which is available as secondary evidence and if at all the originals can be sent for, the Court ought to have given opportunity to the petitioner, but without numbering the application, at the very inception, dismissed the application, which is erroneous.

14. Even though xerox copies are produced, the same can be accepted as secondary evidence if the originals could not be produced and opportunity ought to have been given to the parties to submit the reasons as well as to take steps to get the originals of those documents. Without giving such opportunity, the court dismissed the application. Therefore, this Court is inclined to set aside the order passed in EA SR No.88026 of 2025 in EA No.4 of 2025 in EP No.3698/2022 and remand the matter to the trial court. It is made clear that the matter is remanded only for marking of documents on the side of the petitioner. The evidence which was already adduced by the



respondent need not be disturbed.

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15. Twelve weeks time is granted to the petitioner to adduce evidence as well as mark documents on his side. After recording evidence, the trial Court is directed to dispose of E.A.No.4 of 2025 afresh.

16. In the result, the order passed in E.A SR No.88026/025 in EA No.4 of 2025 in EP No.3698 of 2022 in O.S.No.3189 of 2011 dated 08.01.2026 is set aside **and CRP No.1732 of 2026** is allowed and the matter is remanded to the trial court and twelve weeks time is granted to the petitioner to adduce evidence as well as documents on his side and the trial court is directed to dispose of EA No.4 of 2025 afresh.

17. In view of the order passed in CRP No.1732 of 2026, CRP No.2003 of 2006 is also allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2026

sr

Index:yes/no

Website:yes/no

Speaking Order/Non-speaking Order



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T.V.THAMILSELVI,,J

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To

X Assistant City Civil Court, Chennai

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12.06.2026

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