



WEB COPY

CRP No. 1454 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1454 of 2025

AND

CMP NO. 8580 OF 2025

1. K. Moithutty
S/o. Kunhali,
Noor, Ottappalam East, Chunagad Road,
Near Maliyakkal Garden,
Ottapalam, Palakkad, Kerala – 679 101.
2. K. Ibrahim Kutty
S/o. Kunhutty,
Kongasseri, Pothanur, Kaladi Village,
Edappal, Polpakara, Malappuram,
Ponnai, Kerala – 679 576.

..Petitioner(s)

Vs

1. M/s.Foodscape Rep By Its Partner
1. Sulaiman Sait, 2. Mohammed Taufique,
No.137/2B, Old Mahabalipuram Road,
Chemmencherry, Chennai – 600 119.
2. M. Sulaiman Sait
S/o. Mohammed Adam,
Flat No.1104, Tianan, Hiranandani,
Egatur, Chennai – 600 103.
3. Mohammed Taufique
S/o. Ammeruddeen,
Plot No.219, Classic Farms,
Sholinganallur, Chennai – 600 119.
4. S. Saravanan
S/o. Selvaraj,
No.4/457, Anna Nagar, Valantaravai,
Ramanathapuram – 625 536.



5. Muhammed Rafi
S/o. Muhammed,
Koodallur House, Kondoorkkara Post,
Palakkad District, Kerala – 679 313.

..Respondent(s)

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 12.02.2025 made in IA NO.2 of 2023 in OS NO.280 of 2023 passed by the District Munsif Cum Judicial Magistrate at Thiruporur.

For Petitioner(s): Mr.M. Rajasekaran

For Respondent(s): Mr.Ganesan
For M/s.Colonel & Ganesan Associates For R2
R1- No Such Person
R3- Item Delivered
R4 - Address Moved
R5 - No Appearance

ORDER

Challenging the impugned order passed in IA No.2 of 2023 in OS No.280 of 2023 dated 12.02.2025 on the file of the District Munsif Cum Judicial Magistrate, Thiruporur, the defendants 3 & 4 have preferred this revision petition.

2. The defendants 3 & 4 filed an application before the trial court IA No.2 of 2023, to implead them as defendants 3 & 4 stating that as per investment agreement, the second defendant had entered into three lease agreements with



the three land owners at Semmencherry on 07.06.2019 and paid a sum of Rs.10,00,000/- each and totally paid a sum of Rs.30,00,000/- as advance by way of cash. Thereafter, the second defendant after showing the lease agreements, had entered into with the land owners, started construction of the shops by utilizing the funds invested by them. As on date, he claimed that he is the person, who is in possession of the property and already he filed a suit in OS No.467 of 2023 wherein he filed the suit for declaration against the first defendant who is the plaintiff in present suit in OS No.280 of 2023. Having came to know about this suit proceedings, he filed an application to implead them as defendants 3 & 4. The said application was dismissed by the trial judge by holding that the cause of action stated in the plaint is no way related to the present petitioner. Therefore, they are not necessary parties to implead and accordingly, the application was dismissed. Aggrieved over the same, the defendants 3 & 4 filed this revision petition.

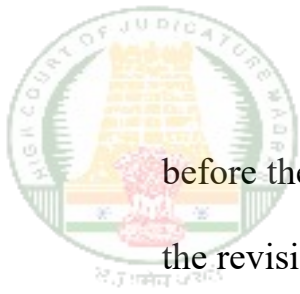
3. The learned counsel for the revision petitioners submits that as on date he is in possession of the property and the suit proceedings were initiated by the respondents / plaintiffs herein. But the court below failed to appreciate the facts and circumstances and erroneously dismissed the application.

4. By way of reply, the learned counsel for the respondents raised strong objections stating that forcibly, pending suit, he took possession of the suit



property and made a false claim and another suit in OS No. 467 of 2023 also based on the false claim and as on date, he was in possession of the property remaining except Item No.1 of the schedule 1. At the time of filing of the suit he was in possession, but after the filing of the suit, he took the possession in unlawful manner and two FIRs were filed in 90 of 2023 and 134 of 2023 and therefore, they are not the necessary parties to the proceedings nor they are related with the original cause of action when the suit was filed. Therefore, prays to dismiss the revision as no merits.

5. Considering both the submissions, the fact also reveals that according to the plaintiffs they are the possession of the property, which was forcibly took possession by the proposed defendants against whom a complaint was lodged and FIR was registered and now charge sheet also filed. The prayer of the suit reveals that the respondents / plaintiffs have come forward for permanent injunction in respect of the Item Nos. 1 and 2 of the schedule of properties. But as on date, according to them, pending suit proceedings, the defendant forcibly took possession of the property. So to avail the relief of permanent injunction, possession is important fact to be decided. So on considering the allegation on the side of the respondents, as on date the proposed parties forcibly took possession of the property. Therefore, to decide the issue of this suit those parties are necessary. But the court below failed to appreciate the facts. Whatever defence available to both the parties, they are entitled to submit



before the trial court. To that effect, the finding of the trial judge is set aside and the revision petition is allowed.

WEB COPY

6. Accordingly, this Civil Revision Petition is allowed. The impugned order passed in IA No.2 of 2023 in OS No.280 of 2023 dated 12.02.2025 on the file of the District Munsif Cum Judicial Magistrate, Thiruporur, is set aside. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

09-04-2026

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

MTL

To

1. The District Munsif Cum Judicial Magistrate, Thiruporur.



WEB COPY

CRP No. 1454 of 2



T.V.THAMILSELVI J.

MTL

**CRP No. 1454 of 2025
AND
CMP NO. 8580 OF 2025**

09-04-2026