



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 1706 of 2025 and CMP No.9871 of 2025

1. R.Kumar

S/o. Late Ranganathan, No. 8-A,
Meenambal Nagar 6th Street, Korukkupet,
Chennai-21.

Petitioner

Vs

1. R.Kandan

S/o. Late Ranganathan, No. 8, Meenambal
Nagar 6th Street, Korukkupet, Chennai-21.

Respondent

Revision filed under Section 115 of Civil Procedure Code against the Order dated 31.01.2025 made in E.P.No.906 of 2017 in O.S.No.86 of 2012 on the file of XXVII Assistant City Civil Court, Chennai.

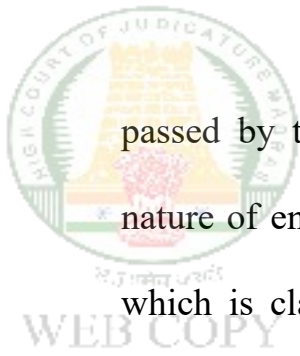
For Petitioner(s): V.K.Rajagopal

For Respondent(s): Mr.Niranjan
For M/s.G.R. Associates

ORDER

Heard Mr.V.K.Rajagopal, learned counsel for the petitioner and Mr.Niranjan, learned counsel for the respondent.

2. The revision petitioner is the judgment debtor who challenges the order



passed by the Executing Court for demolition and removal of encroachments.

nature of encroachment complained of by the respondent/plaintiff is a compound wall, which is claimed to have been put up by the revision petitioner inside the property belonging to the respondent/decreed holder.

3. Learned counsel for the petitioner states that the parties are brothers and are owning adjacent properties, they having been allotted their respective portions of 70 sq.mtrs and 32 sq.mtrs, by the Tamil Nadu Slum Clearance Board. Complaining of encroachment to an extent of 79.15 sq.ft, the respondent filed a suit in O.S.No.86 of 2012. The said suit has been decreed and admittedly, the decree has become final.

4. It is however the case of the learned counsel for the petitioner that in compliance of the decree, the petitioner, who is the elder brother has already demolished the offending compound wall which was complained of in the suit and by removing the encroachment, a fresh compound wall has been constructed and therefore, the decree has already been complied with and there is no encroachment as on date.

5. Learned counsel for the respondent contends that a Commissioner was appointed even in the Execution Petition and the Commissioner has given a clear Report that despite the construction having been put up a fresh, the encroachment still subsists. The learned counsel therefore states that there is no error committed by the Executing



Court in ordering removal of the encroachments.

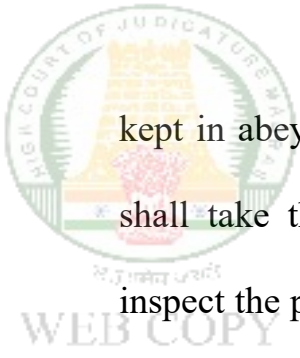
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6. I find from the records that it was the decree holder who cross examined the Commissioner, and the petitioner/judgment debtor has not even opted to cross examine the Commissioner, who was appointed pending the execution proceedings to ascertain as to whether there is any encroachment, despite the claim of the petitioner that the offending compound wall has already been demolished and a new compound wall has been constructed within the property of the revision petitioner. Therefore, from the above, I do not see as to how the order requires any interference.

7. However, at this juncture, learned counsel for the petitioner states that an Engineer/Surveyor, attached to Tamil Nadu Slum Clearance Board can be directed to inspect the property even today and if it is found that any encroachment still subsists, the petitioner is willing to remove the same and comply with the decree.

8. Learned counsel for the respondent, insofar as the request of the learned counsel for the petitioner, leaves it to the discretion of this Court.

9. Considering that the parties are brothers and the petitioner claims that he has already removed the offending compounding wall, I am inclined to give one final indulgence to the petitioner. The order dated 31.01.2025 in EP No.906 of 2017 shall be



kept in abeyance. The Executing Court shall appoint an Advocate Commissioner, who shall take the assistance of the Tamil Nadu Slum Clearance Board's Surveyor and inspect the property, belonging to the petitioner as well as the respondent in terms of the respective allotments and ascertain whether the petitioner's claim that the offending compound wall which was encroaching into the respondent's property has been removed or not. In the event of there being a finding after inspection, in the presence of both the parties, that the encroachment still subsists, then, the petitioner shall have an option to remove the encroachment at his own cost within a period of four weeks thereafter. On failure, the order of the Executing Court shall be proceeded with in accordance with law. The costs of the Commissioner shall be borne by the petitioner.

10. The entire exercise shall be completed by end of April 2026.

11. With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.01.2026

sr
Index:yes/no
Website:yes/no
Speaking Order/Non-Speaking Order



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The XXVII Assistant City Civil Court, Chennai.



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P.B.BALAJI,J

sr

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