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THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 28.09.2026	Order pronounced on : 30.10.2026

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.3107 of 2026
& CMP.No.13470 of 2026

1.Selvaradjou
2.Selvam
3.Latha
4.Marimuthu
5.Radha @ Lakshmi
6.Anjali .. Petitioners

Vs.

1.Chamber De Commerce,
A registered Society,
Represented by its President,
Having its office at
No.1, Rue Suffren,
Puducherry – 504 001.

2.Honesty Engineers & Contractors Trust,
Represented by its Managing Trustee,
Having office at
No.509, M.G.Road, Muthialpet,
Puducherry – 605 003. .. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 28.04.2026 in E.A.SR.No.10398 of 2025 in H.R.C.E.P.No.14 of 2017 in H.R.C.O.P.No.7 of 2015 on the file of the Principal District Munsif, Puducherry.

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For Petitioners : Mr.V.Raghavachari
Senior Counsel
for Mrs.V.Srimathi

For Respondents : Mr.A.K.Sriram
Senior Counsel
Mr.D.Ravichander for R1

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The present revision petition is at the instance of third parties, who have attempted to raise their objections by filing an application under Order XXI Rule 97 of CPC. The said application in unnumbered EA.SR.No.10398 of 2025 came to be dismissed even at the stage of numbering, after hearing the arguments on the maintainability of the application.

2.I have heard Mr.V.Raghavachari, learned Senior Counsel for Mrs.V.Srimathi, learned counsel for the revision petitioners and Mr.A.K.Sriram, learned Senior Counsel for Mr.D.Ravichander, learned counsel for the 1st respondent/decree holder.

3.Mr.V.Raghavachari, learned Senior Counsel would firstly contend that when a specific remedy is made available for an obstructor to raise objections and ventilate his grievances by invoking Order XXI Rule 97 of the Code of Civil Procedure and also setting out the manner in which such an application should be disposed of, the Executing

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Court clearly fell in error in not even numbering the application and dismissing the same, on the ground of maintainability. It is the further submission of Mr.V.Raghavachari, learned Senior Counsel that the petitioners were not even parties to the eviction proceedings and that the petitioners claim title under an auction purchaser, who had purchased the suit property way back on 17-11-1930. The learned Senior Counsel would also rely on the application filed by the 1st respondent/decree holder, invoking Order XXI Rule 97 of CPC against M/s.Kathiravan Furnitures for removal of the obstruction raised by the said M/s.Kathiravan Furnitures.

4.Taking me through the impugned order, as well as the application filed in EA.SR.No.10398 of 2025, Mr.V.Raghavachari, learned Senior Counsel would submit that the Executing Court ought to have numbered the application, given an opportunity to the 1st respondent to file a counter and thereafter, conducted due enquiry and disposed of the matter, in accordance with law. He would also bring to my notice that several documents have been relied on by the petitioners in support of the obstruction application and none of such documents have even been tested by the Executing Court. The learned Senior Counsel would therefore pray for the revision petition being allowed.

5.Per contra, Mr.A.K.Sriram, learned Senior Counsel appearing for the 1st respondent would state that after the order of eviction came to be passed in favour of the

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1st respondent, one M/s.Kathiravan Furnitures had obstructed to execution of the decree in favour of the 1st respondent. He would further contend that E.A.SR.No.3347 of 2026 came to be filed by the Union Territory of Puducherry, represented by its Chief Secretary and others, as third party obstructors, claiming that the 1st respondent has no right to the tenanted premises and by playing fraud and misrepresentation, the decree has been obtained and therefore, the decree itself is void and unenforceable. However, the said EA.SR.No. 3347 of 2026 came to be dismissed by the learned Rent Controller on 28-04-2026, finding that the said application is not maintainable, since the Government had not yet taken possession of the tenanted premises and therefore, it was open to the decree holder to proceed against the person in actual physical possession of the tenanted premises, namely the judgment debtor.

6.The learned Senior Counsel, Mr.A.K.Sriram, would further state that the said order has become final and therefore, the petitioners thereafter cannot take up similar contentions and seek to obstruct to the execution of the delivery warrant in favour of the 1st respondent. The learned Senior Counsel would also rely on the recent decision of Hon'ble Supreme Court in *Challani Ginning and Pressing Factory Vs. Kamal*, reported in *2026 (2) MWN (Civil) 365*, where the Hon'ble Supreme Court held that while deciding an application under Order XXI Rule 97 of CPC, framing of issues and

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recording of evidence is not automatic and if pleadings and materials disclose no *prima facie* right and objection, then even a summary rejection is permissible.

7.The learned Senior Counsel, Mr.A.K.Sriram, would also invite my attention to the attempt made by M/s.Kathiravan Furnitures, represented by its partners Shiva Shanmugam and Sivaraman, who have obstructed to deliver possession in favour of the 1st respondent, which necessitated the decree holder to file an application in EA.No.1 of 2018 under XXI Rule 97 of CPC against the said firm M/s.Kathiravan Furnitures, represented by Shiva Shanmugam and Sivaraman. The said application came to be allowed, as against which, the third party obstructors also filed A.S.No.35 2025, which came to be dismissed on 04-03-2026 by the learned Additional Sub-Judge, Puducherry, confirming the order passed by the Executing Court, allowing the Order XXI Rule 97 of CPC application. Relying on the same, learned Senior Counsel contends that the present petitioners are also set up, only by the original tenant, who suffered an order of eviction and the Executing Court has rightly exercised its discretion not to even entertain the application for obstructing to the execution of warrant for delivery in the execution proceedings. The learned Senior Counsel would therefore pray for the revision petition being dismissed.

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8.I have carefully considered the submissions advance by the learned Senior Counsel on both side.

9.The 1st respondent filed HRCOP.No.7 of 2015 before the learned Rent Controller cum Principal District Munsif Court, Puducherry, for eviction against against one Honesty Engineers and Contractors Trust, represented by its Managing Trustee. Pending HRCOP, the 1st respondent filed an application under Section 11(4) of Act 18 of 1960, which came to be allowed and a conditional order was passed in I.A.No.23 of 2015, directing the tenant to deposit the arrears of rent. Admittedly, the tenant did not comply with the order, which resulted in further proceedings being stopped and an order of eviction being passed in HRCOP.No.7 of 2015 on 09-09-2016. The said decree was put to execution in REP.No.14 of 2017. The said proceedings came to be initiated against the tenant, namely Honesty Engineers and Contractors Trust, represented by its Managing Trustee.

10.Pending the said execution petition, as already discussed, Union of India attempted to obstruct and similarly M/s.Kathiravan Furnitures also attempted to obstruct and both the said obstruction applications ended in favour of the 1st respondent/landlord. In other words, when the application filed by the landlord themselves under Order XXI Rule 97 of CPC against M/s.Kathiravan Furnitures, represented by its partners, came to

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be allowed, it clearly implies that the Executing Court has found the said M/s.Kathiravan Furnitures to be in possession of the tenant premises and testing their right of occupation, also found that their possession was only as a sub-tenant, unauthorised and therefore, they were bound by the order of eviction passed against the chief tenant.

11.As rightly contended by Mr.V.Raghavachari, learned Senior Counsel, the very fact that the said Order XXI Rule 97 of CPC application filed by the landlord/decree holder came to be allowed, only implies that according to the decree holder, the person in physical possession of the tenanted premises and who was sought to be dispossessed was M/s.Kathiravan Furnitures.

12.Today, admittedly, the present revision petitioners are not claiming under the said M/s.Kathiravan Furnitures, who, the Executing Court found to be only a sub-tenant, claiming under the original tenant and therefore, it could not claim any better or independent right. The present petitioners are claiming to be in lawful possession of the tenanted premises and claim that the 1st respondent is not even the actual owner of the premises. It is also the contention of the petitioners that admittedly the petitioners are third parties to all proceedings. Therefore, there is merit in the submission made by Mr.V.Raghavachari, learned Senior Counsel that merely because the application and the

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objection raised by the Union of India, Puducherry, was dismissed and the obstruction application filed against M/s.Kathiravan Furnitures came to be allowed, will not bind the revision petitioners who are admittedly not claiming under either Union of India, Puducherry or M/s.Kathiravan Furnitures. On the other hand, the petitioners have claimed to be in physical possession of the tenanted premises and in support their lawful possession and independent right and title, even along with the application under Order XXI Rule 97 of CPC, the petitioners have filed as many as 14 documents, right from 04.03.1930 onwards, upto 21.03.2024.

13.Unfortunately, the Executing Court, without even testing the objections of the petitioners and even considering any of the said 14 documents, has summarily thrown out the obstruction application filed by the petitioners. As held by the Hon'ble Supreme Court, Order XXI Rule 97 of CPC is a complete Code by itself and the objections that may be raised at the stage of taking possession of the decreetal property cannot even be tried by way of a separate suit. The only avenue open is, therefore, to conduct due enquiry at that particular point of time, namely after filing of the application under Order XXI Rule 97 of CPC and decide the same in accordance with law, by following the mandate of Rules contemplated therefor under Order XXI of CPC.

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14.In *Challani Ginning and Pressing Factory's case*, the Hon'ble Supreme Court found the objections under Order XXI Rule 97 of CPC by close family members of the judgment debtor and therefore, there was not only knowledge, but the delay and conduct of the obstructor weighed in the mind of the Hon'ble Supreme Court to hold that there was no error in summarily rejecting the obstruction application that was filed only as an after thought and to delay the execution of the decree. I do not see how this decision will apply to the facts of the present case. I have already discussed the nature of objection made by the revision petitioners, to be independent of the claim of the judgment debtor or even the earlier obstructors, including the Union of India, Puducherry as well as M/s.Kathiravan Furnitures. In such circumstances, the Executing Court has clearly fell in error in dismissing the Order XXI Rule 97 of CPC application at the nascent stage, without even numbering the said application. In fact, in a recent decision in *Mary Kala Vs. Hussaini Begum* in *CRP.No.2949 of 2026* dated *21.07.2026*, I held that such application for obstruction cannot be decided in a summary manner, especially when pleadings and documents in support of the said application warrant a detailed and roving enquiry to be conducted. The ratio laid down in the said case would also squarely apply to the facts of the present case.

15.In the light of the above, the Civil Revision Petition is allowed and the order dated 28.04.2026 in E.A.SR.No.10398 of 2025 in H.R.C.E.P.No.14 of 2017 in

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H.R.C.O.P.No.7 of 2015 on the file of the Principal District Munsif, Puducherry, is set aside. The Executing Court is directed to number E.A.SR.No.10398 of 2025 and shall afford a fair opportunity to the petitioners to put forth their objection, including letting of oral and documentary evidence. However, the Executing Court shall not grant unnecessary adjournments to the petitioners and ensure that enquiry is completed in the Order XXI Rule 97 of CPC application within a period of four months from the date of receipt of a copy of this order and subject to the result of the said Order XXI Rule 97 of CPC application, it is open to the Executing Court to pass such further or other orders in the execution petition. In the event of the respondents/decree holders being desirous of leading any oral/documentary evidence, then the same shall also be permitted. No costs. Connected Civil Miscellaneous Petition is closed.

30.10.2026

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

The Principal District Munsif, Puducherry.

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P.B.BALAJI.J,

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Pre-delivery order made in
CRP.No.3107 of 2026

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