



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 02.12.2025

Order pronounced on : 09.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.2908 of 2025
& CMP.No.16406 of 2025

The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai – 600 003.

... Petitioner

Vs.

1.Sri Swamy Hathiramji Mutt,
Represented by its Mahant Sri Arjundoss,
Disciple of Devendradossji,
Tirupati, Andhra Pradesh.

Kesava Mudaliar (Died)
2.Ananthakrishna Babu
3.Hamsa Bai
4.Suseendran
5.K.Krishnamurthy

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order of the learned Judge passed in E.A.No.9 of 2024 in E.A.No.6 of 2019 in E.P.No.725 of 1984 in O.S.No.587 of 1970 dated 17.03.2025 on the file of the X Assistant City Civil Court, Chennai.



For Petitioner : Mr.R.Ramanlaal
Additional Advocate General
Assisted by Mr.P.T.Ramadevi

For Respondents : Mr.R.Selvakumar for R1
RR2 to 5 not ready in notice

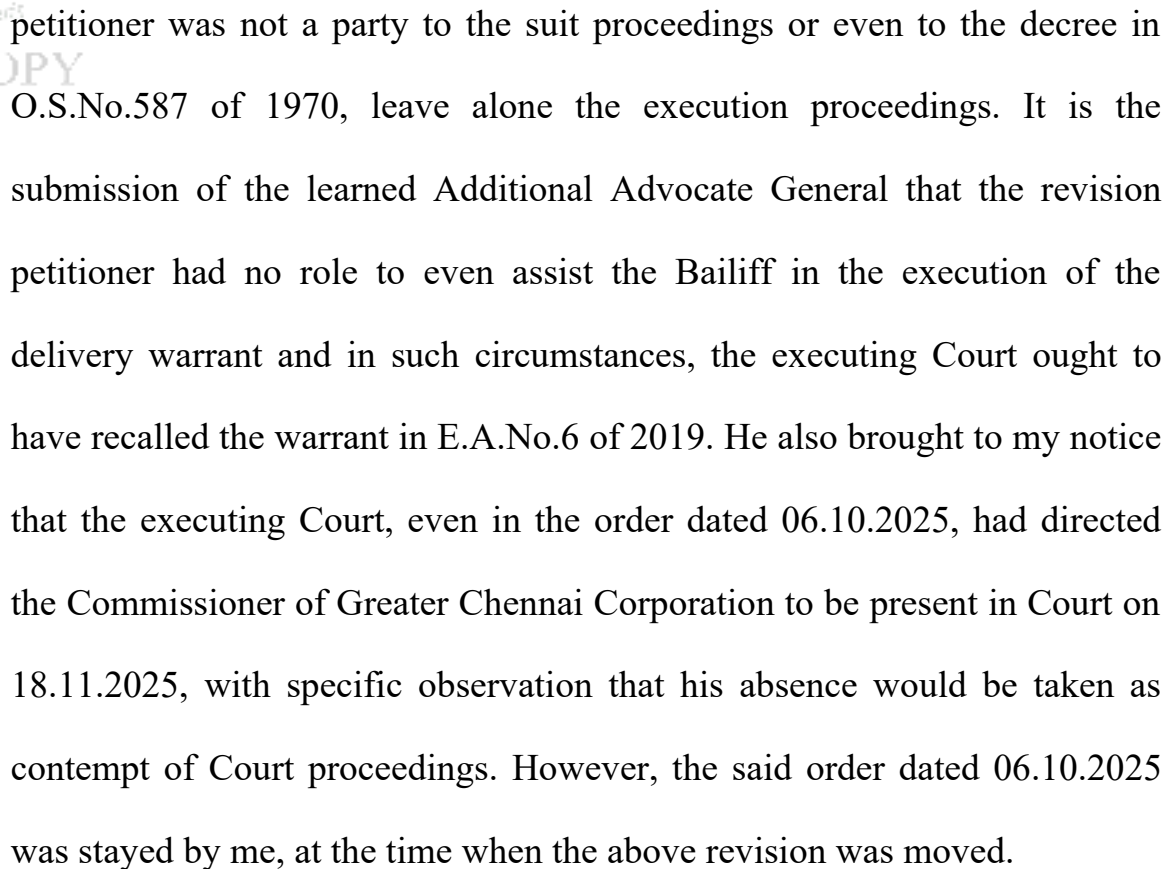
ORDER

The Commissioner, Greater Chennai Corporation, is the revision petitioner.

2.I have heard Mr.R.Ramanlaal, learned Additional Advocate General, assisted by Mrs.P.T.Ramadevi, learned counsel for the revision petitioner and Mr.R.Selvakumar, learned counsel for the contesting 1st respondent.

3.The revision petitioner challenges the order of the executing Court in E.A.No.9 of 2024, directing the Greater Chennai Corporation to provide necessary help to the Bailiff to execute the warrant.

4.Mr.R.Ramanlaal, learned Additional Advocate General appearing for the revision petitioner would first and foremost contend that the revision





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that the respondent had to initiate appropriate action in the manner known to law. The learned Additional Advocate General would therefore state that the executing Court ought not to have resorted to issuing directions to the revision petitioner to provide help to the Bailiff, to execute the warrant.

6.Mr.R.Ramanlaal, learned Additional Advocate General would also state that for evicting the encroachers from the private property of the decree holder, adequate provisions are available in the Code of Civil Procedure by seeking police help and there was absolutely no necessity to invoke Order 26 Rule 10-B of CPC, which is only issuance of a commission for performance of a ministerial act. Referring to Order XXVI Rule 10-B of CPC, Mr.R.Ramanlaal, learned Additional Advocate General would state that in the present case, there is no ministerial act involved and therefore, the order of the executing Court was clearly perverse and the same is liable to be set aside.

7.Per contra, Mr.R.Selvakumar, learned counsel appearing for the 1st respondent would firstly contend that the decree holder is a Mutt, which comes under the control of the Andhra Pradesh Religious Charitable and



Endowments Act and therefore, the very argument of the petitioner that the property is the private property is fallacious. He would further state that the executing Court has not taken any harsh or coercive steps against the revision petitioner, but has only directed the revision petitioner to render assistance.

8.It is also the submission of the learned counsel for the 1st respondent that the suit property, which admittedly belongs to the respondent/decreed holder, has been laid out and even roads have been formed and it is occupied by several third party encroachers and the revision petitioner has also given assessments to houses in the suit property and is collecting taxes. It is more reason therefore, according to the learned counsel for the 1st respondent, that the revision petitioner's assistance is absolutely necessary to enable the decree holder to recover possession from the third party encroachers. He would also state that the respondent has already moved the executing Court for police aid and despite the same being ordered, the respondent was not able to execute the decree and police aid was found insufficient.

9.The learned counsel for the 1st respondent would also submit that a



request was also made to the executing Court for armed police to assist the Bailiff, which was also granted. However, in view of serious protest and agitations by the obstructors, the decree holder has not been able to enjoy the fruits of the decree, despite having approached the Court way back in the year 1970. He would further state that though the petitioner sought to relieve itself, the application was dismissed with a direction that the petitioner had to only render assistance to the Bailiff. He would therefore state that there is no necessity to interfere with the well considered order of the executing Court.

10.I have carefully considered the submissions advanced by the learned Additional Advocate General and the learned counsel for the 1st respondent. I have also gone through the records.

11.On the one side, it is really unfortunate that the respondent/decreed holder, which is a religious Mutt, has not been able to see the colour of the coin, despite having succeeded in a suit filed in O.S.No.587 of 1970 and the execution petition itself having been filed in the year 1984. The respondent decree holder has taken all available steps to ensure that the decree is executed in a manner known to law. However, in view of several



encroachments made into the suit property, despite police aid granted to the Bailiff at the time of execution of the warrant, the respondent has not been successful in getting delivery of possession of the decretal property till date.

12.It is only in these circumstances, the respondent filed E.A.No.6 of 2019 to issue a commission to various Government authorities, ranging from the District Collector to the Assistant Engineer, TANGEDCO. The said list included the revision petitioner as well. The executing Court passed an order in the said E.A.No.6 of 2019 on 31.01.2020, directing the revision petitioner to coordinate with the District Collector, the Tahsildar, Mylapore, the Commissioner of Police, the Inspector of Police, Royapettah, the Chairman and the Assistant Engineer, TANGEDCO and to ensure that every assistance is provided to the Bailiff of the Court in executing the delivery warrant. In the very same order, the executing Court also clearly indicated that the encroachers would have to be evicted and all illegal superstructures built within the EP schedule property are to be demolished and there is no requirement to record any objection from the encroachers or any persons claiming under them.



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13.Pursuant to the said order, the revision petitioner has filed a report in July 2021, stating that as per the revenue records, the suit property is a private property and there is public agitation and turmoil whenever the officials visit the property and there is even an apprehension of heavy riot. It is thereafter that the petitioner moved an application to recall the warrant in E.A.No.6 of 2019, contending that there is no decree against the revision petitioner, directing them to remove the encroachers who are occupying the suit property and that the petitioner cannot single handedly, execute the orders.

14.It has also been brought to my notice that the revision petitioner also filed a revision before this Court in CRP.No.3501 of 2023 and by order dated 15.07.2024, this Court directed the executing Court to take up the application filed by the petitioner to review the order in E.A.No.6 of 2019 and dispose of the same on merits. As already indicated, complaining of the willful disobedience of the orders passed by the executing Court in E.A.No.6 of 2019, that is the order dated 31.01.2020, the respondent moved the Division Bench of this Court in Cont.P.No.1662 of 2022. The Division



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Bench, finding that the property is not a public property, but a private property of the Mutt and that 200 families have occupied the private property and also paying taxes, besides enjoying electricity and water service connections and that the respondent/decreed holder claims these persons to be as encroachers, the facts did not warrant invocation of provisions of the Tamil Nadu Land Encroachment Act, 1905 and therefore, held that the petitioner cannot seek eviction through the revision petitioner Corporation. The Division Bench also noticed that the encroachers were not parties in the suit or the execution proceedings and directed the respondents to initiate appropriate action in the manner known to law and the contempt petition was ultimately dismissed. The findings of the Division Bench of this Court have become final.

15.It is contended by Mr.Selvakumar, learned counsel for the 1st respondent that the findings were only for the limited adjudication of the allegation of willful disobedience and cannot be put against the decreed holder, especially, in the light of the order passed in the revision petition, directing the executing Court to independently deal with the application to recall the order passed in E.A.No.6 of 2019, directing the revision petitioner



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to assist the Bailiff, while executing the delivery warrant.

16.No doubt, the applications filed under Section 47 and Order XXI Rule 97 of CPC have all been dismissed. However, this would not be sufficient to rope in the revision petitioner to assist the Bailiff. As rightly contended by the learned Additional Advocate General, the Greater Chennai Corporation does not have the necessary infrastructure to carryout demolition activities or forcible eviction of encroachers. The learned Additional Advocate General would contend that even where there is unlawful construction made, the authorities only seal the premises and private contractors above are engaged for the purposes of carrying out the demolition of the illegal structures and buildings.

17.In such circumstances, when it is the contention of the learned Additional Advocate General that by no stretch of imagination, the petitioner is equipped or competent to assist the Bailiff in executing the warrant. I find force in the submissions of the learned Additional Advocate General. Merely because the respondent Mutt has been suffering for the past several decades being unable to execute the decree in its favour, it cannot be



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a ground to seek directions to the Commissioner of Greater Chennai Corporation to assist the Bailiff. It is not even stated as to how and in what manner, the Corporation can render assistance to the Bailiff.

18.It has already been reported by the learned Additional Advocate General, as already discussed herein above that the petitioner does not have necessary infrastructure for even demolishing illegal constructions which are put up in violation of planning permission or rules and regulations. In such circumstances, merely because the Corporation has assessed the buildings put up by the encroachers and is collecting taxes cannot be a ground to direct the revision petitioner to render assistance to the Bailiff.

19.The Division Bench, no doubt, in a contempt petition, has also clearly observed that the execution cannot be taken through the revision petitioner. In such circumstances, I do not see how the executing Court was justified in issuing such a direction that the revision petitioner should assist the Bailiff. It is clearly not a ministerial act, that is required to be performed, in order to invoke Order XXVI Rule 10-B of CPC as well. Therefore, the executing Court clearly fell in error in invoking its inherent powers and



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directing the revision petitioner to render assistance to the Bailiff, that too, under Order XXVI Rule 10-B of CPC. For all the above reasons, I am inclined to set aside the order passed by the X Assistant City Civil Court, Chennai in E.A.No.9 of 2024.

20.In fine, the Civil Revision Petition is allowed and the order in E.A.No.9 of 2024 in E.A.No.6 of 2019 in E.P.No.725 of 1984 in O.S.No.587 of 1970 dated 17.03.2025 on the file of the X Assistant City Civil Court, Chennai is set aside. It is however made clear that the present revision being allowed is only in respect of the role of the revision petitioner and the executing Court shall continue to monitor the execution proceedings and see to it that the encroachers are evicted with the aid of the police/armed force, who alone would be competent to assist the Bailiff in the matter of execution of the delivery warrant and dispose of the execution petition, within a period of three months from the date of receipt of a copy of this order. No costs. Connected Civil Miscellaneous Petition is closed.

09.01.2026

Neutral Citation: Yes/No

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Speaking Order/Non-speaking Order

Index : Yes / No

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To

The X Assistant Judge, City Civil Court, Chennai.

P.B. BALAJI,J.

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Pre-delivery order made in

CRP.No.2908 of 2025

& CMP.No.16406 of 2025



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