



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 05.01.2026

Pronounced on: 13.02.2026

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.3289, 4940 & 4518 of 2025
and CMP. Nos.26789, 18206, 24967 & 22936 of 2025**

CRP. No.3289 of 2025:

1.M/s.Mathi Enterprises,
Rep. by its Proprietrix M.Alli.

2.M.Alli

Petitioners

Vs

Mr.Dibyendu Chaudhury

Respondent

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order passed in E.A. SR. No.17874 of 2024 in E.P. No.4715 of 2023 in O.S. No.5387 of 2011 dated 18.07.2025 passed by the learned IX Assistant Judge, City Civil Court, Chennai.

CRP. No.4940 of 2025:

M.Ponmozhi

Petitioner

Vs

1. Mr.Dibyendu Chaudhury



2.M/s.Mathi Enterprises,
Rep. by its Proprietrix M.Alli.

3.M.Alli

Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order passed in E.A. SR. No.34633 of 2025 in E.P. No.4715 of 2023 in O.S. No.5387 of 2011 dated 21.08.2025 passed by the learned IX Assistant Judge, City Civil Court, Chennai.

CRP. No.4518 of 2025:

1.M/s.Mathi Enterprises,
Rep. by its Proprietrix M.Alli.

2.M.Alli

Petitioners

Vs

Mr.Dibyendu Chaudhury

Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order passed in E.P. No.4715 of 2023 in O.S. No.5387 of 2011 dated 25.07.2025 passed by the learned IX Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.R.Singaravelan,
Senior Counsel for
Mr.S.L.Venkatesan in all CRPs



WEB COPY

For Respondent : Mr.V.Girishankar in both CRPs

COMMON ORDER

These revision petitions have been filed against rejection of the Section 47 Application at the SR stage; challenging the order directing execution of the sale deed and dismissal of application under Order 21 Rule 97 CPC.

2. I have heard Mr.R.Singaravelan, learned Senior Counsel for Mr.S.L.Venkatesan, learned counsel for the petitioner and Mr.V.Girishankar, learned counsel for the respondent in all the CRPs.

3. Mr.Singaravelan, learned Senior Counsel would contend that the respondent was a tenant under the petitioner and claiming under an agreement of sale for purchasing the subject property, the respondent had instituted a suit for specific performance of the said agreement of sale and the matter attained finality before the Hon'ble Supreme Court. The Hon'ble Supreme Court confirmed the decree for specific performance, but enhanced the sale consideration alone. Mr.Singaravelan, learned Senior Counsel would however state that against the respondent, the Rent Control Proceedings especially for fixation of fair rent had been initiated and now the matter is pending before the Hon'ble Supreme Court and the respondent may become liable to pay more than a Crore of rupees, subject to final outcome of the proceedings before the Hon'ble Supreme Court. He would further state that the respondent is in



WEB COPY

occupation of only one portion of the suit property and the remaining portions are under the control of the petitioner alone who is also collecting rents from tenants occupying the other portions. It is also the further contention of the learned Senior Counsel that there is a suit pending before the original side of this Court in C.S.No.344 of 2014 and that I had passed orders in Application in A.No.3858 of 2025 on 08.08.2025, giving liberty to the petitioner to obstruct to the Execution Proceedings.

4. Strong reliance is placed on, by the learned Senior Counsel, on Paragraph No.7 of the said order passed by me on 08.08.2025, vacating the interim order of status quo passed in A.No.2454 of 2024. It is therefore, the submission of the learned Senior Counsel that when this Court had granted liberty to obstruct to the Execution, the Executing Court ought not to have dismissed the Section 47 application and the Order 21 Rule 97 Application without any enquiry. He would therefore state that a fair opportunity had to be given to the petitioner to putforth all his objections.

5. The learned Senior Counsel has also relied on the decision of the Hon'ble Supreme Court in *Brahmdeo Chaudhary Vs. Rishikesh Prasad Jaiswal*, reported in (1997) 3 SCC 694, where the Hon'ble Supreme Court held that a third party can also seek adjudication of his rights under Order XXI, Rule 97 CPC and it is not necessary that the Section is available only for the decree holder. He would also rely on *Tanzeem-E.Sufia Vs. Bibi Haliman and others*, reported in (2002) 7 SCC 50, where



the Hon'ble Supreme Court held that a third party in possession of part of the property was entitled to offer resistance to execution and irrespective of the fact that the third party had filed an independent suit for declaration of title to the said property.

6. Per contra, Mr.Girishnakar, learned counsel appearing for the respondent submit that the petitions filed seeking to obstruct and also questioning the executability of the decree are not maintainable and clearly attempts to protract the proceedings to delay and deny the fruits of the decree passed in the suit for specific performance which went up to the Hon'ble Supreme Court. He would further state that the issue regarding fixation of fair rent is independent of the decree for specific performance and if at all, the petitioner succeeds ultimately before the Hon'ble Supreme Court, where the petitioner is on appeal, he would be certainly entitled to stake a claim for any monies that may be due thereupon. However, he would state that the pendency of fair rent proceedings is of no consequence, or relevance in the present proceedings, considering the fact that it was the Hon'ble Supreme Court which had confirmed the decree for specific performance by merely enhancing the consideration amount which too, has been deposited by the respondent. He would therefore state that there is no infirmity in the order passed and the question of any obstruction does not arise since the respondent has not filed any Execution Petition



for recovery of possession, but only for execution of sale deed. In such circumstances, he would pray for dismissal of all the revision petition.

7. I have carefully considered the submissions advanced by the learned Senior Counsel, Mr.Singaravelan and Mr.V.Girishankar, learned counsel for the respondent.

8. Firstly, I must clarify the order passed by me in A.No.3858 of 2025. No doubt, at Paragraph No.7, I had observed that the petitioner's right to obstruct to the execution of the decree is independent of the pendency of a partition suit before the High Court and I had given liberty. However, I was not apprised of the relief sought for in the Execution Petition. I am now given to understand and it is also borne out of records that the present Execution Petition is not for recovery of execution but only for execution of sale deed in furtherance of compliance with the directions of the Hon'ble Supreme Court with regard to enhancing the sale consideration.

9.Order XXI, Rule 97 CPC read thus:

97. Resistance or obstruction to possession of immovable property.—

(1) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction.



(2) Where any application is made under sub-rule (1), the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

10. It is therefore clear from the above that an Application can be filed resisting or obstructing to only delivery of possession on the ground that the petitioner, even though a third party to the proceedings, is in physical possession of the property. In the present case, even according to the petitioner, the respondent was a tenant under the petitioner and therefore, he is in possession, admittedly. However it is fairly admitted by Mr.Girishankar, learned counsel that there are certain other portions which have been occupied by other tenants who were paying rents to the petitioner. However, Mr.Girishankar, learned counsel concedes that insofar as recovering portions of those portions, the respondent would be taking steps in the manner known to law, after getting the sale deed registered in his favour.

11. In the light of the purport of Order XXI, Rule 97 CPC, I do not see how the application is maintainable in the Execution Petition filed only for seeking execution of sale deed. The Execution Petition is not relatable to possession of immovable property and therefore, I do not find any infirmity in the order of the Execution Court, dismissing the application. Equally, there is no merit in the Section 47 Application as well, since the petitioner agitated up to the Hon'ble Supreme Court and decree for specific performance has been confirmed. In the light of the above, the respondent is



WEB COPY

certainly entitled to execution of sale deed in his favour and the order directing the execution of sale deed is also in order. Thus, there is no merit in any of these revision petitions. However, it is made clear that insofar as recovery of possession of portions other than the portions under the occupation of the respondent, the respondent shall initiate due process of law and the same shall be decided in the presence of the petitioners as well as the occupants. Equally, any sale deed that is executed in favour of the respondent in furtherance of the decree for specific performance, affirmed up to the Hon'ble Supreme Court would be subject to the decree passed in C.S.No.344 of 2014 and in the event of ultimately any share being declared in favour of the plaintiff in C.S. No.344 of 2014, the execution of the sale deed in pursuance of the decree of specific performance cannot be put against the petitioner.

12. With these observations, these Civil Revision Petitions are **dismissed.**
Consequently, connected Miscellaneous Petitions are closed. No costs.

13.02.2026

rkp
Neutral Citation Case : Yes/No
Internet: Yes/No
Index : Yes/No

To:
The IX Assistant Judge, City Civil Court, Chennai.



WEB COPY



P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. Nos.3289, 4940 & 4518 of 2025
and CMP. Nos.26789, 18206, 24967 & 22936 of 2025

13.02.2026