



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 01.12.2025

Order pronounced on : 09.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4241 of 2024
& CMP.No.23609 of 2024

Shanthi

... Petitioner

Vs.

The South Arcot Diocesan Corporation
Represented by its Secretary,
Fr.L.A.Arulpushpam,
St.Agnes Seminary,
No.4, Beach Road, Cuddalore – 1.

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the decreetal and fair order in E.P.No.4086 of 2014 passed by the X Assistant City Civil Court, Chennai dated 12.07.2024.

For Petitioner : Mr.R.Thiagarajan
for Mr.R.Muthukumar

For Respondent : Mr.M.Edward Stanley



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ORDER

The judgment debtor, who has been directed to surrender possession, in and by an order dated 12.07.2024 in EP.No.4086 of 2014, is the revision petitioner.

2.I have heard Mr.R.Thiagarajan, learned counsel for Mr.R.Muthukumar, learned counsel for the revision petitioner and Mr.M.Edward Stanley, learned counsel for the respondent.

3.Mr.R.Thiagarajan, learned counsel appearing for the revision petitioner would submit that the executability of the decree passed by the trial Court is under challenge, especially, since the suit property has not been properly identified. Inviting my attention to the decree, as well as the schedule in the EP, the learned counsel for the petitioner would contend that the description of the property does not satisfy the mandate of Order VII Rule 3 of CPC. He would rely on the decision of the Hon'ble Supreme Court in *Civil Appeal No. 9941 of 2016* dated 03.01.2024 to fortify his contention that when there is no proper description of an immovable property, the



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decree cannot be executed. He would also rely on the decision of the Hon'ble Supreme Court in *Mahadev P.Kambekar (Dead) through legal representatives Vs. Shree Krishna Woolen Mills Private Limited*, reported in (2020) 14 SCC 505, where the Hon'ble Supreme Court held that the parties are entitled to raise factual issues, such as, how much area has been leased out, how much area is outside the lease, who are the owners of the leased area and the areas adjacent to the leased areas and all other incidental questions can be agitated before the competent Court.

4.Per contra, Mr.M.Edward Stanley, learned counsel appearing for the respondent would submit that the respondent is a non-profit Company under the Indian Companies Act and the revision petitioner occupies one specific shop portion at Door No.1, Smith Lane, Anna Salai, Chennai -2. There are five shop portions in the said property, one amongst which was let out to the predecessor in interest of the revision petitioner. He would further state that against all tenants, eviction proceedings have been initiated and three tenants have already been vacated. He would further state that the tenants are colluding amongst themselves, by setting up frivolous defence and obstacles to defeat the legitimate rights of the respondent, the decree holder.



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5. In this regard, the learned counsel for the respondent has taken me through the various applications filed under Section 47 of CPC, the revisions before this Court, as well as the adverse orders passed against the tenants upto the Hon'ble Supreme Court as well. He would further state that even the application filed by the revision petitioner under Section 47 of CPC has been dismissed and the challenge to the same by way of CRP.No.2375 of 2024 was also unsuccessful, with the petitioner choosing to withdraw the said revision, pending the EP proceedings.

6. The learned counsel for the respondent would also invite my attention to E.A.No.4 of 2024, which was filed by one Sudharsan, claiming to be in occupation of the suit property, which is claimed to be in the occupation of the revision petitioner as well. The said E.A.No.4 of 2024 has been dismissed, as against which, an appeal appears to have been preferred by the said obstructor. He would also invite my attention to the revision filed by the said Sudharsaan, who is also a tenant in respect of another shop portion, which came to be dismissed by this Court and the SLP before the Hon'ble Supreme Court was also dismissed.



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7.It is therefore the contention of the learned counsel for the respondent that the revision petitioner is only attempting to protract the proceedings, by throwing up some objection or the other. He would further state that with regard to the identity of the property, it is only a dispute between the landlord and the tenant and it is not a title suit where the strict rule of proper and adequate description of the property is required. He would also state that this contention has already been raised by the revision petitioner in the Section 47 petition as well and therefore, it is not open to the revision petitioner to re-agitate the very same issue in the main execution petition. He would therefore pray for the revision being dismissed.

8.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the impugned order as well as the decisions on which, the learned counsel for the petitioner has placed reliance on.

9.The petitioner does not dispute the fact that he is a tenant under the respondent/plaintiff. Admittedly, the petitioner has suffered a decree in



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O.S.No.1288 of 2009 and the same has become final. One Kothandaraman, as proprietor of M/s.Raman Turning Works was the original lessee under the respondent/decreed holder. Subsequent to his demise, his legal heirs have been impleaded and in fact, the decree dated 09.10.2013 in the suit came to be passed only against the legal representatives, including the present revision petitioner. In order to execute the decree, E.P.No.4086 of 2014 has been filed.

10.No doubt, in the decree as well as in the schedule to the execution petition, the respondent has described the property as “a portion of the premises at Door No.1, Smith Lane, Mount Road, Chennai – 2”. There is no mention of boundaries or survey numbers. The sister of the revision petitioner, by name, Gomathi filed an application under Section 47 of CPC. The said application was taken out only to canvas the very same ground that the property has not been described properly. The said application was dismissed by the executing Court and the sister of the revision petitioner filed CRP.NPD.No.463 of 2018. This Court, finding that the issue relating to identity of property has nothing to do with the execution or discharge or satisfaction of the decree, held that the issue cannot be raised under Section



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47 of CPC and therefore, the dismissal of the said application by the executing Court did not warrant interference in revision.

11. The revision petitioner herself filed E.A.No.311 of 2018 to set aside the ex-parte order dated 19.01.2015 passed against her, invoking Order XXI Rule 106(3) of CPC. The said application was dismissed by order dated 16.08.2022. The same was challenged before this Court in CRP.No.2850 of 2022 and by order dated 09.10.2023, this Court allowed the revision petition, directing the executing Court to give an opportunity to the revision petitioner to defend the execution proceedings, with a direction to dispose of the EP within a period of four months. The revision petitioner thereafter took out an application in E.A.SR.No.6892 of 2024 under Section 47 of CPC. In the said application also, the petitioner claimed that the description of the property has not been properly given in the suit, as well as in the decree and therefore, the decree is not executable. Reliance was also placed on the mandate of Order VII Rule 3 of CPC. The said application came to be dismissed even at the SR stage, in and by a detailed and well considered order, finding that the revision petitioner was only filing frivolous applications to thwart the rights of the decree holder from enjoying the fruits



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of the decree.

13. The very same contentions have been subsequently raised in the counter affidavit filed by the revision petitioner in the main EP. Having already agitated these issues up to this Court and again by way of a Section 47 application before the executing Court, the petitioner cannot be permitted to once again canvass the same issue of identity of the property. No doubt, the Hon'ble Supreme Court has held in *Mary Pushpam Vs. Telvi Curusumary*, reported in 2024 INSC 8, that in a suit for possession, the property has to be described with accuracy, with details of measurements and boundaries and when the said requirements are found missing, then the suit is liable to be dismissed on the ground of identifiability. I do not see this decision applying to the facts of the present case. The facts before the Hon'ble Supreme Court related to a title dispute, where the plaintiff had based her claim that she had purchased 8 cents of an open piece of land and the defendant has raised a construction over adjoining land and in the said process, had trespassed into a portion of the property belonging to the plaintiff. In such circumstances, the lack of identity of the property was held to be fatal by the Hon'ble Supreme Court.



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14.It is not the case of the revision petitioner herself that she is not a tenant in respect of the shop portion, which was originally let out to her father. The property is forming part of a larger extent and there are other shops, in respect of which, different tenants have been occupying their respective portions and most of them have already been evicted. It is not the case of the revision petitioner or the other legal heirs that the property, which is subject matter of the dispute and is sought to be recovered from them is not belonging to the respondent or that the revision petitioner is occupying some other property, having an independent right or claim over the same. In such circumstances, I do not see how improper description of the property can be fatal to the case of the landlords.

15.In fact, the very same issue of identity of the property was raised by the petitioner's sister, Gomathi in Section 47 petition. The said petition was dismissed by the executing Court and the order was also confirmed by this Court. The petitioner herself independently filed an application under Section 47 of CPC and the same has also been dismissed. The question of identity of the property was also raised in the said Section 47 petition filed



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by the petitioner herself and also her sister, Gomathi.

16. Even in E.A.No.4 of 2024 filed in the present execution proceedings, the third party, who is another tenant having an independent shop portion, sought to scuttle the respondent's rights. After contest, the said application under Order XXI Rule 101 of CPC was also dismissed by the Court. No doubt, the said order has been challenged by the said third party obstructor, by way of preferring an appeal, which is admittedly pending in A.S.No.216 of 2025 before the XVII Additional City Civil Court, Chennai. The very same person, who has objected in the present execution petition, insofar his shop portion is concerned, suffered a decree and in fact, pending his first appeal, he filed an application for appointment of an Advocate Commissioner, where his specific contention that the properties have not been described with measurements and boundaries, as mandated under Order VII Rule 3 of CPC was also raised. The said application was dismissed by the First Appellate Court. The revision filed by the said obstructor, K.Sudharsan was dismissed by this Court in CRP.No.1680 of 2021, where this Court held that the requirement of mandate of Order VII Rule 3 of CPC would not apply to a tenant and the shop portions are easily



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identifiable and the application for appointment of an Advocate Commissioner only to drag on the proceedings.

17.The order passed by this Court has been challenged before the Hon'ble Supreme Court as well and the SLP came to be dismissed even at the delay stage, holding that there is no reason to interfere with the order passed by this Court. In the light of the above, it is not open to one tenant after the other to raise the very same issue of identity of the property, which is clearly an attempt to defeat the legitimate rights of the owner of the property, namely the respondent herein. In the light of the above, I do not see any perversity or infirmity in the order of the executing Court, allowing the execution petition and directing the petitioner to deliver possession to the respondent.

18.In fine, the Civil Revision Petition is dismissed. The petitioner shall vacate and hand over vacant possession on or before 28.02.2026. No costs. Connected Civil Miscellaneous Petition is closed.

09.01.2026

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order



Index : Yes / No
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To
The X Assistant City Civil Court, Chennai.



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P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.4241 of 2024
& CMP.No.23609 of 2024



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