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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 7033 of 2026 and

CMP No.30264 of 2026

Case QR

CNR: {HCMA012223302026}

C.Durairaj (Died),

D.Shyamala (Died),

1. Devakirubai
2. D.Marina Sugumari
3. Sasirekha
4. D.Irudayakumar
5. D.Staney
6. D.Mariyaselvam
   (Petitioners are the legal heirs of the deceased D.Shyamala, 2nd JD. Amendment carried out as per order dated 19.12.2024 passed in EA.4/2024

   all are residing at No.27, Appaswamy Street,

   Chetpet, Chennai 600 031)

..Petitioner(s)

Vs

D.Gopalan, S/o Doraiswamy
Res at No.26, Appaswamy St,
Chetpet, Chennai 600 031

..Respondent(s)

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Order QR

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Prayer: Civil Revision Petition is filed under Section115 of CPC to set aside the order passed in EP.No.845 of 2019 in O.S.No.3543 of 1986 dated 17.08.2026 on the file XXVI Asst. City Civil Court, Chennai, by allowing this Revision Petition With Cost.

For Petitioner(s): Mr. T. Selvakumar

For Respondent(s): Mr. M.Kamalanathan

ORDER

This Civil Revision Petition has been filed challenging the order passed by the Executing Court, allowing the Execution Petition filed by the respondent/ Decree holder seeking removal of encroachment in the suit B Schedule Property, like, brick pillars, tin roofing sheet, wooden planks and the Mango Trees.

2. The respondent/Decree Holder filed a suit in O.S.No.3453 of 1986 on the file of XXVI Assistant Judge, City Civil Court, Chennai and obtained a decree for declaration declaring that the suit B schedule Property, which is part of A schedule property belongs to the plaintiff and for consequential decree for mandatory injunction, directing the petitioner/defendant to remove the above mentioned encroachment found in the suit B schedule property and to hand over possession to the respondent/plaintiff. Since the petitioner/Judgment Debtor

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failed to remove the encroachment, as per the decree, which was also confirmed by this court in S.A.No.1316 of 2007, dated 24.08.2018, the respondent/Decree Holder filed an execution petition in E.P.No.845 of 2019 seeking removal of the encroachment in the suit B schedule property. By order dated 17.08.2026, the Executing Court ordered for removal of the encroachment made in the suit B schedule property, as per the decree. Aggrieved by the same, the petitioner has come before this court.

3. The learned counsel for the petitioner would submit that already the petitioner had removed the encroachments found in the suit B schedule property and hence, the prayer sought for by the respondent/ decree holder in the execution petition has become infructuous. He also invites the attention of this court to the memo filed by him before the Executing Court.

4. Mr.M.Kamalanathan, learned counsel for the respondent/caveator would submit that major portion of the encroachments found in the B schedule Property have already been removed, however, still, a small portion of construction is there, which is yet to be removed.

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5. In the light of the submission made by the learned counsel for the petitioners and the respondent, this court feels that a Court Amin shall visit the suit schedule property and find out whether there is any encroachment in the suit B schedule property. If he finds any encroachment in the suit B schedule Property, the same shall be removed, as per the terms of the decree and the impugned order. On the other hand, if the Court Amin finds that the encroachments in the B schedule property, as mentioned in the decree, had already been removed, he shall file a report to that effect before the Executing Court. Then, the executing court shall take further call in the main Execution petition.

5. With these clarifications, this civil revision petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

10-11-2026

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

MST

To
1. The XXVI Assistant Judge,
City Civil Court, Chennai.

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S.SOUNTHAR, J.

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