



WEB COPY



CRP No.4465 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.01.2026

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.R.P.No.4465 of 2025

and

C.M.P.Nos.22791 & 26459 of 2025

Rexpaul

S/o, Irudayaswamy,
No.87, St.Mary's Church Colony,
St.Mary's Road, Abiramapuram
Chennai – 600 018.

... Petitioner

Vs

1. Archbishop of Madras-Mylapore,
Rep by his duly appointed power agent,
Rev.Fr.S.Ignatius Thomas,
Residing at Archbishop's House,
No.41, San Thome High Road,
Chennai -4.

2. Archdiocese of Madras _ Mylapore Society,
Rep by its Chairman, Archbishop
of Madras-Mylapore,
Rep by his duly appointed power agent,
Rev.Fr.S.Ignatius Thomas,
Residing at Archbishop's House,
No.41, San Thome High Road,
Chennai -4.

... Respondents

PRAYER in CRP No.4465 of 2025 : This Civil Revision Petition is filed to
set aside the order of rejection dated 29.07.2025 made in E.A.S.R.No.ATN



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20220015729 D202500246 in EP No.365 of 2024 in O.S.No.4053 of 2014 on the file of the IX Assistant City Civil Court, Chennai.

PRAYER in CMP No.22791 of 2025: This Civil Miscellaneous Petition is filed to grant an order of interim stay of all further proceedings in E.P.No.365 of 2024 in O.S.No.4053 of 2014 on the file of the IX Assistant City Civil Court at Chennai pending disposal of the above civil revision petition.

PRAYER in CMP No.26459 of 2025: This Civil Miscellaneous Petition is filed to vacate the interim stay granted in CMP No.22791 of 2025 dated 17.09.2025.

For Petitioners : Mr.S.Ravichandran

For Respondent : M/s.C.Auxilia

ORDER

This Civil Revision Petition is preferred under Section 115 of the Code of Civil Procedure, assailing the order dated 29.07.2025 passed in the unnumbered Execution Application received in S.R. No. E.A. No. ATN20220015729D202500246 in E.P. No.365 of 2024 in O.S. No.4053 of 2014, on the file of the IX Assistant City Civil Court, Chennai.



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2. The brief facts, to the extent necessary for the disposal of this Civil Revision Petition, are as follows: The petitioner is the judgment-debtor in O.S. No.4053 of 2014 on the file of the XV Assistant City Civil Court, Chennai. The respondents instituted the said suit seeking eviction in respect of the suit schedule property, asserting themselves to be the landlords and describing the petitioner as a tenant. The suit for eviction was laid against the petitioner and other tenants of the St. Mary's Church Colony.

3. The petitioner, as defendant, filed a written statement and contested the suit. Upon consideration of the oral and documentary evidence, the Trial Court, by judgment and decree dated 07.02.2018, decreed the suit on merits, directing the petitioner/defendant to vacate the suit premises and granting three months' time for compliance.

4. No appeal having been preferred against the said judgment and decree, the judgment and decree dated 07.02.2018 attained finality.

5. On the strength of the decree dated 07.02.2018, the respondents/plaintiffs initiated execution by filing an Execution Petition under Order XXI Rule 35 CPC for delivery of possession in E.P. No.365 of



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2024 on the file of the IX Assistant City Civil Court, Chennai. The petitioner filed his objections thereto by filing a counter in the said execution proceedings.

6. In the counter filed in the execution proceedings, the petitioner/defendant raised the following objections:

- (i) the suit property is poromboke land;
- (ii) non-compliance by the plaintiffs with Order III Rule 2 CPC and Rules 16 and 17 of the Civil Rules of Practice;
- (iii) non-compliance by the plaintiff Society with Section 20 of the Tamil Nadu Societies Registration Act, 1975;
- (iv) non-compliance with the requirements of Order XXI Rule 11(2) CPC; and
- (v) In Column No.12 of the Execution Petition, it is shown as R2 to R4.

7. In the meantime, the petitioner also filed an application under Order XXI Rule 17 read with Section 151 CPC, in S.R. No. ATN20240008230 D202400113, seeking dismissal of E.P. No.365 of 2024 by reiterating the very same grounds raised in the counter. The said application was a verbatim



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reiteration of the counter already on record. After hearing both sides, the Executing Court, by order dated 28.03.2025, rejected the said application.

8. The petitioner presented yet another petition on 09.07.2025, purportedly under Section 47 CPC, which was received in S.R. No. ATN20220015729D202500246. Upon perusal of the contents thereof, the Executing Court found the petition to be not maintainable and, by order dated 29.07.2025, rejected the same.

9. Further, after hearing both sides, the Executing Court overruled the objections raised by the judgment-debtor/defendant in his counter and, by order dated 08.08.2025, directed delivery in E.P. No.365 of 2024. In pursuance thereof, when the Court Bailiff visited the suit premises on 20.08.2025 for effecting delivery, he found the premises under lock and accordingly returned the warrant seeking appropriate orders for breaking open the lock.

10. However, aggrieved by the order dated 29.07.2025 in S.R. No. ATN20220015729D202500246, the present Civil Revision Petition has been filed by the petitioner on 15.09.2025



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11. Grounds raised in the Section 47 Petition: In the unnumbered petition in S.R. No. ATN20220015729D202500246, the petitioner/defendant questioned the executability of the decree alleging fraud. It was asserted that the suit property in S. No.3977 is classified as poromboke land and that, consequently, the plaintiff has no title thereto. It was further contended that the change in the classification of the land was effected without adherence to Government Circular No. VI/1413381/2021 dated 05.09.2022.

12. It was further stated that, in connected matters, directions were issued in a Second Appeal No. 246 of 2024 (batch) dated 17.12.2024, to initiate disciplinary proceedings against erring revenue officials. On that basis, it was contended that the decree was obtained by the plaintiff by playing fraud and is therefore a nullity. It was also contended that the second plaintiff Society had been declared defunct for non-compliance with the statutory requirements.

13. The point for consideration before this court is “Whether the executing court is correct in rejecting the Section 47 application at the threshold ? ”



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14. Here and Now, the Executing Court, in the impugned order, rejected the contentions advanced by the petitioner, holding that the petition had been filed solely to protract the proceedings and to prevent the decree-holder from reaping the fruits of the decree, and accordingly dismissed the application at the threshold without numbering it.

15. As noticed earlier, O.S. No.4053 of 2014 was instituted by the landlord seeking eviction of the tenant, and the suit was not one for declaration or adjudication of title. In the written statement, the defendant admitted the tenancy, though during the course of arguments the relationship of landlord and tenant was sought to be denied.

16. The Trial Court, upon consideration of the admissions in the pleadings, the payment of rent by the defendant, the tenancy agreement, and the fact that the petitioner/defendant was a member of the St. Mary's Tenants' Welfare Association, categorically held that the petitioner/defendant was a tenant under the plaintiff and consequently ordered eviction.

17. Once a tenant enters into possession of the suit property by admitting the plaintiff as landlord, he cannot, during the subsistence of the



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tenancy, question or deny the title of the landlord, in view of the specific mandate of Section 116 of the Indian Evidence Act, 1872, corresponding to Section 122 of the Bharatiya Sakshya Adhiniyam, 2023.

18. Section 116 of the Indian Evidence Act, 1872 stipulates that no tenant of immovable property, or any person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord had title to the immovable property at the commencement of the tenancy.

19. The Supreme Court, in *Vashu Deo v. Balkishan*, (2002) 2 SCC 50, has held that the estoppel embodied in Section 116 operates in the following manner: (i) it precludes denial of the landlord's title at the commencement of the tenancy; (ii) it continues until the tenant surrenders possession; and (iii) it may, in appropriate circumstances, extend to cases involving sub-tenants.

20. The Madras High Court, in *D. Sreenivasa Mudaliar Charity v. Dhanasekaran and others*, (2001) 3 MLJ 168, affirmed the said principle and held that once tenancy and possession under the landlord are established,



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the estoppel under Section 116 is attracted, thereby precluding the tenant from disputing the landlord's title at the inception of the tenancy.

21. As regards the plea that the Society is defunct, the petitioner has not produced any material to substantiate the said assertion, and the contention therefore remains unproved. In any event, upon restoration under Section 44(7) of the Tamil Nadu Societies Registration Act, a society is deemed to have continued in existence, and a state of being defunct cannot be equated with dissolution under Section 41 of the Act.

22. The interim stay granted in the Second Appeal in the connected matter does not operate as a stay of the present execution proceedings. It was further submitted by the learned counsel for the respondents/plaintiffs that the order dated 17.12.2024 was itself stayed by the Hon'ble Supreme Court in SLP Nos. 8802–8806 by order dated 09.04.2025. This material fact was suppressed by the petitioner, notwithstanding that the present petition was filed on 15.09.2025.

23. The order of rejection passed by the Executing Court is in accordance with law. The grounds urged in the present petition only reinforce



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the finding of the Executing Court that the application was filed with the sole object of protracting the proceedings, a conclusion which is well founded.

24. In the result, no ground is made out to interfere with the order of the Executing Court, and the Civil Revision Petition is dismissed. Consequently, the connected civil miscellaneous petition, if any, stands closed.

23.01.2026

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. The IX Assistant City Civil Court,
Chennai



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DR. A.D. MARIA CLETE, J

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