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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2026

CORAM

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CRP. No.4679 of 2025  
and CMP. No.23712 of 2025**

1.C.N.G.Theyen Mozhi  
2.C.N.G.Ezhil Arasi  
3.C.N.G.Niraimathi

Petitioners

Vs

K.R.Venkataraman

Respondent(s)

**PRAYER:** This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to call for the records from the file of the learned Sub Judge, Alandur in E.P. No.90 of 2023 in O.S. No.15 of 2009 (Sub Court, Tambaram) to set aside the same.

For Petitioners : Mr.P.Valliappan,  
Senior Counsel for  
Mr.M.Sriram

For Respondents : Mr.T.Easwara Dhas  
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**ORDER**

The petitioners are the judgment debtors in EP.No.90 of 2023 on the file of the Subordinate Judge, Alandur. The petitioners challenge the order passed in EP.No.90 of 2023 dated 19.09.2025, in and by which the Executing Court has



ordered delivery of the property after demolition of superstructure, as per the decree.

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2. I have heard Mr.P.Valliappan, learned Senior Counsel for Mr.M.Sriram, learned counsel for the petitioner and Mr.T.Easwaradas, learned counsel for the respondent/decreed holder.

3.Mr.P.Valliappan, learned Senior Counsel would state that the case on hand is a very unfortunate case where the petitioners, bonafide proceeded to put up construction in a property not belonging to them. The learned Senior Counsel would further state that the petitioners have sunk in their hard-earned earnings and savings to put up a solid construction in the form of a residential building and despite a fact that the petitioners were unsuccessful up to the Hon'ble Supreme Court, inviting my attention to the order of the Hon'ble Supreme Court in Special Leave to Appeal (Civil).No.38640 of 2025, Mr.Valliappan, learned Senior Counsel would state that though the Hon'ble Supreme Court, by order dated 05.01.2026 has dismissed the Special Leave Petition, the Hon'ble Supreme Court has specifically observed that the dismissal of the Special Leave Petition would not preclude the petitioner from exploring the possibility of settlement before the Executing Court.



4. Relying on the said small window given by the Hon'ble Supreme Court, learned Senior Counsel would state that fortunately, in the present case, the petitioner's property which was supposed to have been used to put up the construction is still available and it is vacant. It is also of an extent of 2400 sq.ft, which is 400 sq.ft more than the property that belongs to the respondent/deGREE holder. He would therefore state that the petitioners are willing to give the said one ground of vacant land in lieu of the property of the decree holder, being given in exchange to the petitioners, which would at least enable the petitioners to save the residential building, put up by them, investing several lakhs.

5. In fact, pending the revision, I had also provided ample opportunities to the petitioners to approach the respondent and amicably settle the matter. The issue appears to be that it is not only with regard to the two properties which have been referred herein above, but also a passage adjoining the property that is presently occupied by the petitioners, leading to a rear portion which belongs to the respondent. The respondent gave an offer that he would be willing to exchange the properties of 2400 sq.ft, extent with his property of 2000 sq.ft with the property of the petitioners measuring 2400 sq.ft, subject to a 10ft clear passage being provided by the petitioners for purpose of ingress and egress to the rear property which belongs to the respondent. It appears that it is not feasible to provide the 10 feet passage, as the petitioners have already put up



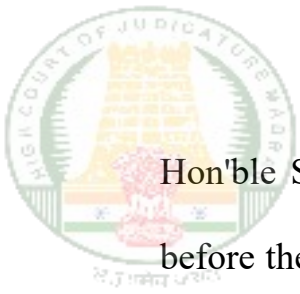
construction and there is no possibility of providing a clear 10 feet wide passage unless and until the building is pulled down.

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6. Mr.Valliappan, learned Senior Counsel would also state that, for providing a clear 10 feet passage, the entire building may have to be pulled down since the construction is put up in such a manner using pillars that would make it as possible for providing such a passage of 10 feet width.

7. Per contra, Mr.Eashwaradas, learned counsel for the respondent, on instructions from the respondent/decreed holder, has declined the offers mooted by the petitioners through the learned Senior Counsel, Mr.P.Valliappan, who in fact, has taken pains to personally go over and inspect the property to explore the possibility of an amicable settlement between the parties.

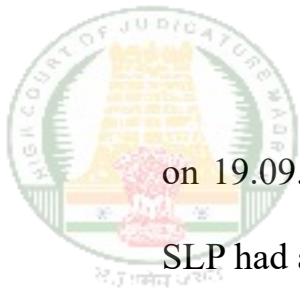
8. Today, it has been reported to me that the respondent is not willing for any amicable settlement and has outright rejected the offers proposed by the petitioners. Mr.P.Valliappan, learned Senior Counsel at this juncture, would request short accommodation since the petitioners have already filed a review application in SA.No.2 of 2024, seeking review of the judgment in the Second Appeal dated 25.04.2025. As on date, admittedly, there is no stay granted, prohibiting the respondent from executing the decree. The respondent has succeeded throughout and up to the Hon'ble Supreme Court. Though the



Hon'ble Supreme Court has observed that the petitioners can settle the matter before the Executing Court, the said exercise has also been futile. Excepting for the interim stay granted by me in the above revision at the time of the admission of the CRP, nothing prevents the Executing Court from proceeding to execute the decree by demolishing the construction put up by the petitioners in the property admittedly belonging to the respondent. The Civil Revision Petition itself was entertained by me only on the limited ground that the Hon'ble Supreme Court had given one last opportunity to the petitioners to save their property.

9. Unfortunately, despite sincere attempts made by learned Senior Counsel, Mr.P.Valliappan by proposing multiple offers, the same have not been acceptable to the decree holder, of course for valid reasons, according to the decree holder. It is the grievance of the respondent/decreed holder that the decree holder is 85 years old and is bedridden and he has purchased the two properties for his two children and in such circumstances, he is not willing or in a position to accept the various offers suggested by the learned Senior Counsel, for an amicable settlement.

10. The Executing Court has rightly ordered delivery, after giving sufficient opportunity to the judgment debtors to produce any stay order from the higher Courts. In fact, after the order was passed in the Execution Petition



on 19.09.2025, the petitioners also moved the Hon'ble Supreme Court and the SLP had also been dismissed on 05.01.2026.

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11. In the light of the foregoing discussion, there is no error or infirmity in the order of delivery passed by the Executing Court, after demolition of the superstructure put up by the petitioners. The decree passed in the suit on 11.07.2017 also entitles the respondent to a decree for removal of the illegal construction and for delivery of possession of the property. Thus, I do not see any merits in the revision petition. Accordingly, this Civil Revision Petition is dismissed. The Executing Court shall dispose of the EP.No.90 of 2023 on or before 31.03.2026. Consequently, connected Miscellaneous Petition is closed. No costs.

**26.02.2026**

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Neutral Citation Case : Yes/No

Internet: Yes/No

Index : Yes/No

To:

1. The Sub Judge, Tambaram.
2. The Sub Judge, Alandur



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**P.B.BALAJI, J.,**

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