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C.R.P.(NPD).No. 6572 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 08-01-2026**

CORAM

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

C.R.P.(NPD).No.6572 of 2025  
& C.M.P.No.32489 of 2025

M/s.HCL Technologies Limited,  
Represented by its Deputy General Manager (Administration),  
No.73-74, South Phase,  
Ambattur Industrial Estate,  
Chennai-600 058.

... Petitioner

Vs.

1. Mohamed Hanif Osman,  
Partner, M/s.Hamosons, H.M.Centre,  
2nd Floor, No.29, Nungambakkam  
High Road, Chennai-600 034.

2.M/s.Hamosons,  
A Partnership rep. by its Managing  
Partner,  
H.M. Centre, 2<sup>nd</sup> Floor, No.29,  
Nungambakkam High Road,  
Chennai -600 034.

3.Abdul Razak Osman,  
Managing Partner,  
M/s.Hamosons, H.M. Centre,  
2<sup>nd</sup> Floor, No.29,  
Nungambakkam High Road,  
Chennai -600 034.

... Respondents

**Prayer:** Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 24.07.2025 passed in E.A.No.2 of 2025 in E.A.No.1 of 2024 in E.P.No.4179 of 2022 in O.S.No.101 of 2020.



For Petitioner: Mr.P.M.N.Bhagavath Krishnan  
For Respondents: Mr.Manishankar, Senior Counsel,  
for Mr.Chandini Pradeep Kumar, For R1  
Mr.Vignesh Venkatachalam, For R2 & R3

### **ORDER**

The plaintiff-decree holder, aggrieved by the order passed by the Executing Court permitting Judgment Debtor No. 3 to file an additional counter in E.P.No.1 of 2024, has approached this Court by way of the present Civil Revision Petition.

2. Heard Mr.P.M.N.Bhagavath Krishna, Learned counsel for the revision petitioner; Mr.C.Manishankar, Learned Senior Counsel for Ms.Chandini Pradeep Kumar, respondent No.1; and Mr.Vignesh Venkatachalam, learned counsel for respondents 2 and 3.

3. Mr. Bhagavath Krishna, learned counsel for the petitioner, would attack the order passed by the Executing Court granting liberty to the third respondent to file an additional counter. He contends that the third respondent had initially filed a counter in E.A. No. 1 of 2024 admitting that he was a partner of M/s.Hamosons, the judgment debtor. However, subsequently, in the proposed additional counter filed in E.A. No. 1 of 2024, the third respondent has taken a



diаметrically opposite stand and contends that he is not a partner of the first judgment debtor. Mr.Bhagavath Krishna therefore contends that the third respondent is not entitled to approbate and reprobate and take mutually destructive pleas in the two affidavits in the same proceedings. Mr.Bhagavath Krishna would also contend that the Executing Court has erroneously placed the burden of proving that the third respondent is a partner, on the revision petitioner, instead of calling upon the third respondent to establish the said fact.

4. The Counsel has also relied on the decision of the Hon'ble Supreme Court in Civil Appeal Nos.2491-2492 of 2021, in *Union of India and others vs. N.Murugesan Etc.*, which is relevant to the issues involved in this case

5. Per contra, Mr.C.Manishankar, learned Senior Counsel for the first respondent, would state that the suit was originally filed before this Court on the original side in C.S.No. 27 of 2011 and the third respondent, who is the first respondent in the revision, was never arrayed as a defendant in the suit and also even subsequent to its transfer to the City Civil Court in O.S. No.101 of 2020. In the suit, the firm was represented only by the other partner and Managing partner, Mr.Abdul Razak Osman. However, he further invited my attention to the order passed by the Executing Court.



6. Mr.C.Manishankar, learned Senior Counsel would further contend that the rights of the revision petitioner have not been foreclosed and that the Executing Court has rightly held that no prejudice would be caused to the decree holder by merely permitting the first respondent to file an additional counter. He would therefore pray for the dismissal of the revision petition.

7. I have carefully considered the submissions advanced on either side. I have also gone through the records, including the impugned order passed by the Executing Court.

8. No doubt, the first respondent had initially filed a counter-affidavit in E.A.No.1 of 2024, admitting that he was a partner of the first judgment debtor in the execution petition. Subsequently, however, the first respondent filed an application in E.A. No. 2 of 2024 seeking permission of the Executing Court to file an additional counter-affidavit in the said execution petition, to clarify his earlier statement in E.A.No.1 of 2024 and to put forth his stand that he has never been a partner of the first judgment debtor firm, as rightly pointed out by Mr.C.Manishankar, learned Senior Counsel.



**9.** The question whether the statement made in the first counter-affidavit in E.A.No.1 of 2024 would amount to an admission and whether it can be explained by a subsequent affidavit, are matters that can be decided only at the time of inquiry. The Executing Court has merely permitted the first respondent to file an additional counter-affidavit. I do not see how any prejudice is caused to the decree holder by permitting the first respondent to file an additional counter-affidavit.

**10.** At the same time, the Executing Court has clearly erred in holding that the burden is on the revision petitioner-decree holder to establish that the first respondent is a partner in the firm. The decree holder is a third party/stranger to the affairs of the first judgment debtor firm, and therefore, the decree holder cannot be called upon to establish the fact whether the first respondent is, or has ever been a partner of the firm. That is something within the knowledge of the respondents, especially the first respondent, who now claims that he has never been a partner of the firm

**11.** To substantiate the said claim, the first respondent may produce relevant documentary evidence before the Executing Court. This exercise can always be undertaken during the inquiry in E.A.No.1 of 2024. In view of the



foregoing discussion, the observation of the Executing Court in E.A. No. 2 of 2024 insofar as it holds that the first respondent has denied that he is a partner of the judgment-debtor firm and that the burden has shifted to the decree holder to prove the same, is set aside.

**12.** It is made clear that it is for the first respondent to establish that he is not a partner, as he now contends, despite having earlier filed a counter-affidavit in E.A. No. 1 of 2024 wherein he stated that he was a partner of the firm. The Executing Court shall independently examine the two stands taken by the first respondent, while disposing of E.A. No. 1 of 2024. The Executing Court shall also consider the explanation afford by the 1<sup>st</sup> respondent and finding it for a contradictory or clarificatory stand, as the case may be.

**13.** The Executing Court shall afford an opportunity to the parties to lead oral and documentary evidence to establish the question of whether the first respondent is or is not a partner of the firm. E.A.No.1 of 2024 shall be decided on merits in accordance with law.



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**14.** With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**08-01-2026**

Index:Yes/No

Neutral Citation:Yes/No

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To,

The Learned IX Assistant City Civil Court, Chennai.



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**P.B.BALAJI J.**  
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