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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 6315 of 2025 and CMP No.31300 of 2025

1. Parvathy
2. Saravanan
3. Yogalakshmi
4. Dilip

Petitioner(s)

Vs

1. K.Ashok Chakravarthy
S/o.K.Appa Rao, Advocate Commissioner
cum receiver, No.77, Additional Law
Chambers, High Court, Madras

Respondent(s)

Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order dated 17.11.2025 passed in E.P.No.1123 of 2025 in RLTOP No.332 of 2024 on the file of XV Court of Small Causes, Chennai.

For Petitioner(s): G.A.Thiyagarajan

For Respondent(s): M/s.S.Venkata Krishnakumar

ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondent.



2. Learned counsel for the petitioners states that the challenge is to the order passed by the Executing Court, ordering delivery, without notice being issued to the petitioner/tenants. Learned counsel placed reliance on Section 39 of Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017. Learned counsel for the petitioners invited my attention to Section 39 of the Act, which mandates issuance of notice, before the order of delivery is passed by the executing court. The counsel further states that the petitioner has already challenged the order of eviction before the Rent Tribunal and appeal has been filed, though with a delay of 24 days. He therefore states that the order of delivery may be set aside and a fair opportunity may be given to the petitioners, especially since the petitioners dispute the very jural relationship of landlord and tenant.

3. Per contra, learned counsel for the respondent would state that the respondent/landlord is the Advocate Commissioner-cum-Receiver appointed by this Court and he is in the process of getting the necessary income from the estate and that the proceedings have already been initiated against all the tenants occupying the estate and the other tenants have already vacated and it is only these tenants who are in occupation, despite having acknowledged the right of the estate to be the landlord.

4. Learned counsel for the respondent relies on the communication dated 11.11.2023, which however is disputed by the learned counsel for the petitioners, stating



that it is a fabricated document and that these contentions have been raised before the Rent Court and now before the Rent Tribunal.

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5. Be that as it may, the executing court cannot fall back on the provisions of Order XXI of Civil Procedure Code and dispense with notice to the judgment debtor. I have already held that notice is mandatory under Section 39 of Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017 in ***S.Dilli Babu vs. C.Mohan***, (C.R.P.No.2082 of 2025, dated 22.05.2024).

6. In the light of the above, the order of delivery without notice to the petitioners has to be necessarily set aside. At the same time, considering that the petitioners have already challenged the order of eviction and the same is pending in unnumbered RLTA, and since the appeal has been filed with delay of 24 days, I enquired with the learned counsel for the respondent as well as the Advocate Commissioner-cum-Receiver, who is also present in person and they have expressed no serious objection for the delay being condoned, provided appropriate court fee is paid on the appeal.

7. Learned counsel for the petitioner states that necessary court fee on the appeal has already been paid and it will be numbered if the delay is condoned.



8. In the light of the above, I am inclined to pass the following Order:-

- (i) The order of delivery in E.P.No.1123 of 2025 is set aside;
- (ii) The execution petition shall be kept in abeyance till the disposal of RLTA preferred by the petitioners.
- (iii) The respondent/decreed holder shall express no objection for the delay of 24 days being condoned.
- (iv) There upon the Rent Tribunal shall allow the Section 5 application and take up the RLTA on merits and in accordance with law and dispose of the same by 30.04.2026.
- (v) Subject to the decision in RLTA, the execution proceedings can be proceeded with thereafter.

9. With the above observation, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2026

sr

Index:yes/no

Website:yes/no

Speaking Order/Non-Speaking Order



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The XV Court of Small Causes, Chennai



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P.B.BALAJI.,J

sr

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