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CRP No. 535 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 535 of 2026

AND

CMP NO. 2843 OF 2026

Athavullah
S/o. R.M.Saffullah,
No.74/35, Kolakaranpet 1st Lane,
Royapettah,
Chennai-600 014.

..Petitioner(s)

Vs

Board Of Trustees P.T.Lee
Chengalvarayan Naicker Trust,
Rep. by its Secretary,
No.2-3, E.V.K. Sampath Salai,
Vepery, Chennai-600 007.

..Respondent(s)

PRAYER

Civil Revision Petition filed under Art. 227 of Constitution of India, praying to allow the revision petition and thereby set aside, lancinate the order dated 07.11.2025 made in EA.SR.No.59235/2025 in EP.No.520/2024 on the file of XXVII Assistant City Civil Court, Chennai number the sec 47 application, and dispose it of on merits in accordance with the law.

For Petitioner(s): Mr. Ashok Rajaraaman

For Respondent(s): Mr.S.Patrick

Order

Challenging the impugned order passed in EA SR.No. 59235 of 2025 in E.P.No. 520 of 2024 by the XXVIII Assistant Judge, City Civil Court, Chennai,



the Revision Petitioner/Judgment Debtor No.2 had preferred this Civil Revision Petition.

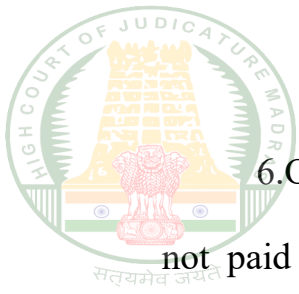
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2. The Revision Petitioner is the 2nd defendant in the suit in O.S.No.2617 of 2012, had filed the Execution Application under Sec.47 of C.P.C. seeking to try the issue with regard to the execution and satisfaction of the decree. But the said application was rejected by the Executing Court. Aggrieved over that, this Civil Revision Petition has been preferred.

3. The learned counsel for Revision Petitioner would submit that though he was arrayed as 2nd defendant in the suit, after filing written statement, he remained exparte. However, he purchased the superstructure along with easementary right in the year 1988. Based on that only, he possessed and enjoyed the property, but the Executing Court without considering the said aspect, erroneously dismissed the application and ordered for delivery of vacant possession of suit property. However, he is entitled to claim right over the superstructure and having valid defence. Therefore, he prayed to direct the Executing Court to number the application filed by him.

4. The learned counsel for respondent/plaintiff raised strong objections stating that the suit is of the year 2012, as on date, he enjoyed the property without paying admitted ground rent, which comes around Rs.13,00,000/-. The learned counsel would submit that Rs.165/- per sq.ft. was fixed as rent.

5. Heard and considered rival submissions made on either side and perused the materials available on record.



6. On perusal of records, the fact reveals that upto the year of 2017, he has not paid the rent, but he claimed right over the superstructure, for that, he produced the copy of sale deed of the year 1988, which is much prior to the suit.

As on date, he is in possession of property. However, he remained exparte in the trial court. Therefore, the Executing Court had passed the decree for delivery of vacant possession. Now, the Execution Petition has also been filed by the respondent/decreed holder. To avoid multiplicity of proceedings and to adjudicate the issue, this Court is inclined to give one more opportunity to Revision Petitioner and to set aside the findings rendered in EA.SR.No.59235 of 2025 in E.P.No. 520 of 2024 on condition that the Revision Petitioner shall deposit a sum of Rs.1,50,000/- into the credit of E.P.No.520 of 2024 on the file of XXVIII Assistant Judge, City Civil Court, Chennai within a period of twelve weeks from the date of receipt of copy of this order. Thereafter, the Executing Court is directed to take the application filed under Sec.47 of C.P.C. by the revision petitioner on file and to dispose the same within a period of three months. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

12-06-2026

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

RPP
To
The XXVII Assistant Judge, City Civil Court, Chennai.



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T.V.THAMILSELVI J.

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