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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2026

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THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.R.P.(NPD) No.355 of 2026

and

CMP No.2019 of 2026

J.Rajendran

... Petitioner/JD/Defendant/Petitioner

Vs

Sri Vengeeswarar Alagarperumal and

Nagathamman Koil Devasthanam.

Rep. By its Executive Officer,

Vadapalani, Chennai – 600 026.

... Respondent/D.H/Plaintiff/Respondent.

PRAYER:

To set-aside the order dated 17.11.2025, passed in E.A.No.7299/2010 in E.P.No.280/2010 in O.S.No.871/2004 by the Learned X -Asst. City Civil Court at Chennai, allowing the petition filed under section 47 of CPC and pass order on merits and pass other appropriate order in the circumstances of the case.

For Petitioner :Mr.P.Thiagarajan

For Respondent : Mr.R.Abdul Mubeen



ORDER

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1. This Civil Revision Petition is filed under Section 115 CPC against the order dated 17.11.2025 passed in E.A.No.7299 of 2010 in E.P.No.280 of 2010 in O.S.No.871 of 2004 by the X Assistant Judge, City Civil Court, Chennai. By that order, the petition filed by the judgment-debtor under Section 47 CPC to dismiss the execution petition as “not executable” was dismissed.

2. The respondent is the temple Devasthanam, now represented by its Executive Officer. The petitioner is the judgment-debtor.

3. The petitioner’s main contentions are these: the land is “inam” land; as per G.O.Ms.No.1818 dated 09.05.1956 the temple could lease it only for 20 years and the period ended long ago; after the Tamil Nadu Minor Inams (Abolition) Act, 1963 the land became ryotwari and pattas should go to the occupants and not to the temple; and he claims possession through one C.H. John, with a superstructure, and relies on rent/lease materials. On this basis, it is contended that the temple has no continuing right to evict him.



4. Heard the learned counsel for the petitioner. It is submitted that the decree is nullity because the civil court had no jurisdiction; that such an objection can be raised even at the execution stage; that the land is ryotwari; that the temple has no title and therefore cannot execute the decree; and that his Section 47 application ought to have been allowed.

5. The O.S.No.871 of 2004 was a suit for arrears of rent and delivery of possession after termination of tenancy. The petitioner states that the trial Court dismissed the suit, but the first appeal A.S.No.459 of 2008 was allowed on 30.06.2009 and the second appeal S.A.No.1244 of 2009 was dismissed on 04.01.2010. Thereafter, E.P.No.280 of 2010 was filed for delivery. These facts show that the dispute proceeded on the footing of a landlord-tenant relationship and that the petitioner's entry and possession were traced to tenancy.

6. In E.A.No.7299 of 2010 under Section 47 CPC, the petitioner again claimed that the decree cannot be executed. He alleged that the temple is not the owner; that the decree was obtained by suppression/fraud; that inam/ryotwari issues show the temple has no right; and that the trustee had no authority. He therefore claimed the decree is a nullity.



7. The respondent opposed the abovesaid application stating that the same issues were already raised and rejected up to second appeal; that the tenant cannot deny the landlord's title; and that the executing court cannot go behind the decree.

8. The executing Court held that the decree has become final and the objections are not new. It also relied on earlier judgments and tenancy materials to hold that the petitioner is estopped from disputing the decree-holder's right. It held that Section 47 CPC has a limited scope and the executing Court cannot go behind the decree. The application was dismissed.

9. The revisional power under Section 115 CPC is limited. Interference is possible only if the subordinate Court acted without jurisdiction, failed to exercise jurisdiction, or committed material irregularity. A revision is not a further appeal on facts or on the merits of the decree.

10. In this case, the petitioner's attack on the decree also fails for a basic reason that under Section 116 of the Indian Evidence Act, 1872 if a person entered into possession as a tenant, he cannot, while continuing in possession, deny that the landlord had title at the beginning of the tenancy.



11. 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.

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

13. Here, the petitioner himself relies on tenancy materials such as lease/rent and rent receipts. The suit was also for arrears of rent and delivery of possession after termination. Therefore, having entered as a tenant, the petitioner cannot, at the execution stage and while still in possession, deny the title of the decree-holder temple by saying the Government is the owner or that the temple has no title. Such a plea is barred by Section 116 of the Evidence Act.



14. Once Section 116 applies, the petitioner cannot convert a title dispute into a “jurisdiction” objection and label the decree as a nullity. Even if he raises inam/ryotwari issues, those matters do not permit the executing Court to reopen a final decree, nor do they allow a tenant in possession to deny the landlord’s title at the start of tenancy. The executing Court was right in holding that it cannot go behind the decree.

15. **Sushil Kumar Mehta v. Gobind Ram Bohra (dead) through his LRs ((1990) 1 SCC 193; Urban Improvement Trust, Jodhpur v. Gokul Narain (dead) By Lrs and another ((1996) 4 SCC 178; AIR 1996 SC 1819), Kiran Singh and others v. Chaman Paswan and others (1954) 1 SCC 710, Hiralal Moolchand Doshi v. Barot Raman Lal Ranchhoddas (dead) by LRS ((1993) 2 SCC 458; AIR 1993 SC 1449) and Indian Oil Corporation Ltd. v. Sudera Realty Pvt. Ltd. (C.A. No.6199 of 2022, decided on 06.09.2022; reported as (2023) 16 SCC 704)** do not consider tenant’s estoppel; they turn on the doctrine of nullity for inherent lack of jurisdiction and the limited scope of execution, which is not made out on the facts here, and in any event the petitioner’s present objection being, in substance, a denial of the decree-holder’s title is barred by the tenant’s estoppel while he continues in possession.



15. In the result, the Civil Revision Petition is dismissed at the admission stage. Consequently, C.M.P.No.2019 of 2026 stands closed. No costs.

26.02.2026

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

X -Asst. City Civil Court at Chennai.



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DR. A.D. MARIA CLETE, J

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