



CRP(MD). No.368 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.02.2026

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THE HONOURABLE MRS. JUSTICE N.SENTHILKUMAR

CRP(MD).No.368 of 2023 and
CMP(MD).No.1802 of 2023

Balakrishnan

... Petitioner

Vs

1.S. Perachi
2.Kadalmani Raja
3.Chellapandian

... Respondents

PRAYER :- Civil Revision Petitions filed under Article 227 of the Constitution of India to call for the records and set aside the fair and executable order dated 04.11.2019 passed in the petition in E.P.No.91 of 2017 in O.S.No.89 of 2000 on the file of the Principal Subordinate Court, Tenkasi.

For Petitioner : Mr.J. Barathan
for Mr.T.R. Jeyapalam

For respondents 1 to 3 : Mr.K.Mohandass
Legal Aid Counsel

ORDER



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This Civil Revision Petition has been filed to call for the records and to set aside the fair and decreetal order dated 04.11.2019 passed in E.P. No. 91 of 2017 in O.S. No. 89 of 2000 on the file of the Principal Subordinate Court, Tenkasi.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The present revision petitioner is a tenant in the suit property and was arrayed as the second defendant in O.S. No. 89 of 2000 on the file of the Principal Subordinate Court, Tenkasi. The suit was decreed. Subsequently, the revision petitioner independently filed a separate suit in O.S. No. 314 of 2005 seeking a bare injunction restraining the respondents herein from evicting him except by due process of law, and the said suit was decreed in his favour. Based on the judgment and decree in O.S. No. 89 of 2000, the first respondent / third defendant filed Execution Petition in E.P. No. 91 of 2017 seeking delivery of possession.



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In the said execution proceedings, the revision petitioner contended that his possession and tenancy rights could not be disturbed, as they are protected under Order XXI Rule 96 of the Code of Civil Procedure, particularly in view of the partition effected in O.S. No. 89 of 2000.

4. It is seen that the respondents' shares were divided into two portions in the partition suit. Though the partition was effected in respect of both survey numbers, the revision petitioner continues to occupy the premises, which is a commercial property, as a tenant paying rent.

5. Challenging the order passed in E.P. No. 91 of 2017 directing delivery of the property, the revision petitioner filed a review application in E.A. No. 3 of 2019, which came to be dismissed. Aggrieved by the dismissal of the review application, the revision petitioner approached this Court in CRP (MD) No. 1446 of 2022 seeking to set aside the said order. This Court, by order dated 31.07.2024 in CRP (MD) No. 1446 of 2022, passed an order which squarely applies to the case of the present revision petitioner and is binding on the respondents.



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6. In view of the above, this Civil Revision Petition is allowed and the fair and decreetal order dated 04.11.2019 passed in E.P. No. 91 of 2017 in O.S. No. 89 of 2000 is set aside. It is, however, left open to the first respondent to work out her remedy, if any, in the manner known to law by filing appropriate application(s) before the Execution Court. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. Despite service of notice, the respondents did not appear before this Court. This Court appointed Mr. Mohandas as Legal Aid Counsel. This Court places on record its appreciation for the effective assistance rendered by the learned Legal Aid Counsel. The Legal Services Authority is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Legal Aid Counsel within a period of two weeks from the date of receipt of a copy of this order.

18.02.2026

TRP

Index : yes / no

Internet: yes/ no

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The Principal Subordinate Court, Tenkasi.

N.SENTHILKUMAR, J.,



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