



CRP(MD). No.3916 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 05.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.3916 of 2025

and

CMP(MD) No.20442 of 2025

R.Sivakumar

... Petitioner

Vs

1.Palanisamy

2.Dharmalingam

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 12-11-2025 passed by the District Munsif cum Judicial Magistrate, Srirangam in unnumbered EA..... of 2025 in E.A.No.01 of 2019 in E.P.No.96 of 2019 in R.C.O.P.No.193 of 2000 and direct the District Munsif Cum Judicial Magistrate, Srirangam to number the said E.A.

For Petitioner

: Mr.T.Lenin Kumar

ORDER

This Civil Revision Petition is filed challenging the return order dated 12.11.2025 passed by the learned District Munsif cum Judicial Magistrate, Srirangam in unnumbered E.A. ... of 2025 in E.A.No.01 of 2019 in E.P.No.96 of 2019 in R.C.O.P.No.193 of 2000.



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2.The third party to RCOP.No.193 of 2000 on the file of the District Munsif Court, Trichy, is the petitioner herein.

3.The first respondent/landlord had filed RCOP.No.193 of 2000 on the file of the District Munsif Court, Trichy, against the second respondent/tenant seeking eviction on the ground of wilful default in payment of rent. In the said petition, an *ex parte* order came to be passed on 23.04.2003, based on which, the first respondent had filed E.P.No.746 of 2004, but the same was dismissed on 30.03.2007 for non payment of delivery batta. The first respondent again filed EP.No.88 of 2016 before the I Additional District Munsif Court, Trichy and in the said EP proceedings, the petitioner, who is a third party to RCOP.No.193 of 2000, had filed an application under Order 21 Rule 97 of C.P.C, to record his objections in the execution petition, which was later transferred and renumbered as E.A.No.1 of 2019 in E.P.No.96 of 2019. On 06.10.2025, the said EA., was dismissed for default and on 12.11.2025, the petitioner filed a restoration petition under Order IX Rule 9 r/w Section 151 CPC before the District Munsif cum Judicial Magistrate Court, Srirangam.



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However, the same was returned by the Court below stating that 'how this petition is applicable to execution petition'. Challenging the same, the present Civil Revision Petition has been filed.

4.The learned counsel for the petitioner would submit that the petitioner, who is the brother of the second respondent and the second respondent are in continuous possession and enjoyment of the property, which is sought to be delivered. He would further submit that the land is a Poramboke land and not a rented property as claimed by the first respondent. In this regard, the petitioner along with the second respondent had already instituted a suit in O.S.No.1479 of 2014 against the first respondent for permanent injunction. However, without considering all those facts properly, the trial Court had returned the application filed by the petitioner, which warrants interference of this Court. He would further submit that if the application is not numbered, the petitioner will be put to irreparable loss and hardship and thus, he called upon this Court to grant the relief as prayed for.



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5. Heard the learned counsel for the petitioner. Since no adverse orders are going to be passed in this petition, notice to the respondents is dispensed with.

6. Perusal of record would reveal that the petitioner, who is a third party to RCOP.No.193 of 2000, has filed an application claiming right over the property in question under Order 21 Rule 97 of C.P.C to record his objections in the Execution Petition. Therefore, any order passed under this provision should only be construed to be a deemed decree under Order 21 Rule 103 of C.P.C. The Executing Court cannot conduct a roving enquiry with regard to the right of a third party, as it is the subject matter, which has to be decided in the suit. Since the third party cannot agitate his right in the execution proceedings, this Court is not inclined to entertain this petition.

7. In such circumstances, the present Civil Revision Petition is not maintainable and is accordingly, dismissed for want of merits. It is made clear that this Court has not considered the merits of the claim made by the petitioner.



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WEB COPY No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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05.01.2026

To

The District Munsif Cum Judicial Magistrate,
Srirangam.



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N.SENTHILKUMAR, J.

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