



WEB COPY

CRP No. 3838 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No. 3838 of 2026 and
CMP No.16738 of 2026**

A.Mohamed Sherif Rawther
S/o Abdul Rahman Rawther,
No.12, Neela East Street,
Nagapattinam Town, Nagapattinam 611001

..Petitioner(s)

Vs

Shanmugasundaram (Died)

1. Selvavelan, S/o Shanmugasundaram,
No.38, Kottupalayam Street,
Nagapattinam Town, Nagapattinam 611001.
2. Selvabalaji, S/o Shanmugasundaram,
No.22, Loganathan Nagar,
Mannivakkam Extension, Chennai
3. Sivagurunathan (Power Agent of 1 and 2)
S/o Jothisivam, No.33, Kottupalayam Street,
Nagapattinam Town, Nagapattinam 611 001.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 115 of CPC to set aside the fair and decretal order passed in E.P.No.26 of 2023 in RCOP.No.12 of 2014 dated 09.06.2026 on the file of the Rent Controller/District Munsif, Nagapattinam.

For Petitioner(s): Mr. V.Pavel

For Respondent(s): Mr.A.Muthukumar



ORDER

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This Civil Revision Petition has been filed to set aside the fair and decretal order passed in E.P.No.26 of 2023 in RCOP.No.12 of 2014 dated 09.06.2026 on the file of the Rent Controller/District Munsif, Nagapattinam.

2. The original landlord, namely Shanmugasundaram filed RCOP No.12 of 2014 against the civil revision petitioner/tenant, seeking eviction and to hand over possession of the property and the same was allowed by the Rent Controller on 27.11.2015. Subsequently, the legal heirs of the deceased Shanmugasundaram, namely the present respondents have filed E.P.No.26 of 2023 to execute the eviction order and it was allowed. Challenging the above said order, the present civil revision petition has been filed.

3. Heard Mr.V.Pavel, learned counsel for petitioner and Mr.A.Muthukumar, learned counsel for the respondents.

4. Admittedly, the petitioner herein/tenant, already filed RCA No.4 of 2016, challenging the eviction order passed by the Rent Controller in RCOP No.12 of 2014, however, the above appeal was dismissed for default on 30.11.2018. Thereafter, the petitioner filed application in I.A.No. 1 of 2024 to restore appeal and the same is pending. Further, the petitioner also filed



applications in I.A.Nos.2 and 3 of 2026 to condone the delay of 2177 days in taking steps to bring on record the LR's of the deceased Shanmugasundaram/ original landlord and to bring on record his legal representatives in the appeal proceedings and the same are allowed.

5. The learned counsel for the petitioner states that the petitioner/ tenant did not have the particulars of the legal heirs of the deceased Shanmugasundaram, who are residing abroad and hence, the applications could not be filed in time. He would further contend that since the petitioner came to know about the death of the landlord, an application was filed in the month of December 2018, however, the same was misplaced during Covid and it necessitated the petitioner to take a fresh application thereafter in the year 2024. It is also brought to my notice that the appellate authority has allowed the Section 5 application, however, even before the appeal could be heard on merits, the executing court, noticing that there is no interim stay granted by the Rent Control Appellate Authority, has proceeded to order delivery. The learned counsel for the petitioner states that the petitioner has substantial merit in the Rent Control Appeal and hence, he may be granted a fair opportunity to prosecute the appeal on merits.



6. Per contra, Mr.A.Muthukumar, learned counsel for the respondents/landlords would state that the Rent Controller had ordered eviction on the grounds of demolition and reconstruction as well as owner's occupation, finding bonofide requirement on the part of the respondents. He would further states that the building is more than 80 years old and the petitioners are unnecessarily protracting the proceedings by filing some application or the other. He would further states that the reasons now put before the court, as if the interlocutory applications were filed in time and misplaced and that the court permitted filing of fresh set of applications are all false and unsubstantiated.

7. Be that as it may, admittedly, the Section 5 application has been allowed by the appellate authority in I.A.No.2 of 2026. The learned counsel for the respondents/ landlords, however, would state that the order came to be passed, without proper service of notice on the respondents/landlords and the respondents may be advised to challenge the said order.

8. In order to balance equities, considering the above narrated circumstances, I am inclined to allow the civil revision petition with the following directions:-

i) The civil revision petitioner shall implead the respondents herein as legal heirs of the deceased Shanmugasundaram, the original landlord, if not



already impleaded in RCA No.4 of 2016, within a period of two weeks from the date of receipt of copy of the order.

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ii) The appellate authority shall hear the RCA No.4 of 2016 on merits and in order to hear the arguments of both parties on merits, any interlocutory applications that may be technically necessary to be allowed, shall be allowed.

iii) The appeal shall be heard and disposed of by 31.08.2026 and subject to the decision of the Rent Control Appellate Authority, it shall be open to the respondents/landlords to proceed with the execution petition from the present stage.

iv) The execution proceedings shall be kept in abeyance till the disposal of the appeal by the Rent Control Appellate Authority.

There shall be no order as to costs. Connected miscellaneous petition is closed.

28-07-2026

Note: Issue order copy on or before 30.07.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The Sub Judge, Rent Controller Appellate Authority,
Nagapattinam.

2. The District Munsif/Rent Controller,
Nagapattinam.



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P.B.BALAJI, J.

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