

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 03.12.2025

Order pronounced on : 09.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.4639 of 2025& CMP.Nos.23440 & 23441 of 2025

M.M.Babu

... Petitioner

Vs.

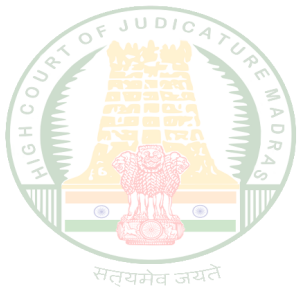
1.Young Men Christian Association,
Represented by their General Secretary P.Asir Pandian,
YMCA Building, No.223, N.S.C.Bose Road,
Chennai – 600 001.

2.S.B.Chandrakumar

3.C.Rahul Gupta

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 17.09.2025 in E.A.SR.No.45179 of 2025 in E.P.No.275 of 2021 passed by the learned XIV Judge, Small Causes Court at Chennai and thereby consequentially restore the possession of the premises situate in the Ground Floor under the name and style of “New Ramakrishna Lunch Home” in the western wing of the YMCA building at No.223, N.S.C.Bose Road, Esplanade, Chennai – 600 001 to the revision petitioner.



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For Petitioner : Mr.R.Abdul Mubeen
for Mr.P.D.Selvaraj

For Respondents : Mr.V.R.Thangavelu for R1
R2 and R3 vacated

ORDER

The revision petitioner is an obstructor, who filed an application under Order XXI Rule 99 of CPC, claiming to be a bonafide tenant and not being a party to the proceedings before the Rent Controller. The said application has been dismissed at the SR stage, holding that the application is not maintainable. Challenging the same, the present revision petition has been filed.

2.I have heard Mr.R.Abdul Mubeen, for Mr.P.D.Selvaraj, learned counsel for the revision petitioner and Mr.V.R.Thangavelu, learned counsel for the 1st respondent.

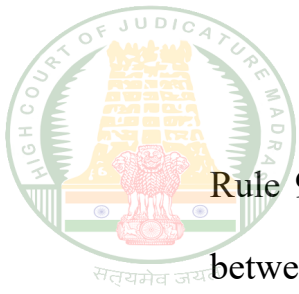
3.Mr.R.Abdul Mubeen, learned counsel appearing for the revision petitioner would submit that the original tenants under the 1st respondent were carrying on business under the name and style of New Ramakrishna Lunch Home under the 1st respondent, as a tenant. He would further contend



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that the rent control proceedings were initiated against the erstwhile predecessors in interest of the revision petitioner and eviction came to be ordered in RCOP.No.1299 of 2018. Execution petition in E.P.No.275 of 2021 was filed by the 1st respondent. The petitioner obstructed to the execution and therefore, the 1st respondent took out an application in E.A.No.4 of 2025 for removal of obstruction. The executing Court allowed the said application on 19.08.2025, after hearing the revision petitioner, as well as the 1st respondent. Thereafter, the revision petitioner has been dispossessed on 19.09.2025. The revision petitioner filed E.A.SR.No.45179 of 2025 under Order XXI Rule 99 of CPC, complaining of dispossession. The said application has been rejected as not being maintainable.

4.The learned counsel for the revision petitioner would further submit that the revision petitioner is entitled to maintain an application under Order XXI Rule 99 of CPC and the very language of the provision indicates that any person other than the judgment debtor can take recourse to Rule 99 of CPC to establish his rights in the property, from which, he has been dispossessed. He would further state that merely because the removal of obstruction petition in E.A.No.4 of 2025 has been allowed, it does not prevent the revision petitioner from filing an application under Order XXI



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Rule 99 of CPC. He would also take me through certain correspondences between the parties to reinforce his argument that the decree holder was very much aware of the fact that the revision petitioner was the person actually doing business under the name and style of “New Ramakrishna Lunch Home” and they had also received a substantial sum of Rs.40 lakhs from the petitioner towards arrears of rent payable by the judgment debtors/respondents tenants. He would therefore state that the revision petitioner was negotiating with the 1st respondent for clinching a fresh agreement and mischievously the 1st respondent has proceeded to execute the decree and dispossess the revision petitioner.

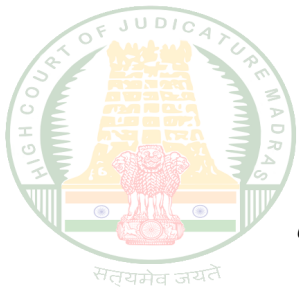
5.The learned counsel for the petitioner would further state that the petitioner has an independent right in the subject property and unless he is given an opportunity to prosecute his application under Order XXI Rule 99 of CPC, the petitioner would be put to serious prejudice and hardships. He would rely on the following decisions:

1.Brahmdeo Chaudhary Vs. Rishikesh Prasad Jaiswal and another, (1997) 3 SCC 694.

2.Silverline Forum Private Limited Vs. Rajiv Trust and another, (1998) 3 SCC 723.

3.Mst.Hashmi @ Batuil Vs. Ali Ahmad and others, Writ(C).No.47617 of 2008.

4.Asgar and others Vs. Mohan Varma and others, (2020) 16 SCC 230.



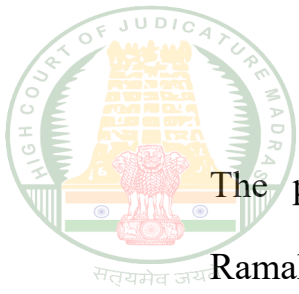
5.Jini Dhanrajgir and another Vs. Shibu Mathew and another, (2023) 20 SCC 76.

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6.Per contra, Mr.V.R.Thangavelu, learned counsel appearing for the 1st respondent, referring to the definition of “ judgment debtor” under Section 2(10) of CPC, would contend that the petitioner having failed in his attempt to obstruct the execution petition, falls within the definition of a judgment debtor and therefore, he cannot invoke Order XXI Rule 99 of CPC, which is available only to a person who is not a judgment debtor. He would further state that the executing Court has passed a detailed and well considered order as to why the application under Order XXI Rule 99 of CPC is not maintainable and when the very same issues were agitated by the revision petitioner earlier, it is the contention of Mr.V.R.Thangavelu, learned counsel for the 1st respondent that there is no merit in the revision and no interference is warranted with the findings of the executing Court that the Order XXI Rule 99 of CPC application is not maintainable.

7.I have carefully considered the submissions advanced by the learned counsel on either side.

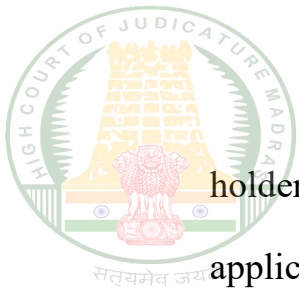
8.Admittedly, the petitioner was not a party to the RCOP proceedings.



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The petitioner claims that he has taken over the business of “New Ramakrishna Lunch Home” from the respondents/judgment debtors in the execution petition. No doubt, as contended by Mr.R.Abdul Mubeen, the 1st respondent was aware of the factum of the petitioner taking over the business of the respondents/judgment debtors and there have been negotiations between the 1st respondent and the petitioner with regard to execution of a fresh lease agreement. It is the case of the 1st respondent that despite opportunities given to the petitioner to come forward to pay a negotiated sum towards the arrears of rent, which is due and payable by the erstwhile tenants, the petitioner did not avail of the opportunity and it is only after waiting for more than a year and that the 1st respondent has proceeded with the execution petition.

9.Order XXI Rule 97 of CPC enables the decree holder to move the executing Court to seek an order of removal of obstruction, that is made by any person, while delivery is attempted by the decree holder. The Hon'ble Supreme Court has now settled the legal position that a person even other than the judgment debtor can invoke Order XXI Rule 97 of CPC and he need not wait to be dispossessed and invoke Order XXI Rule 99 of CPC. However, in the present case, admittedly, it was the 1st respondent-decree

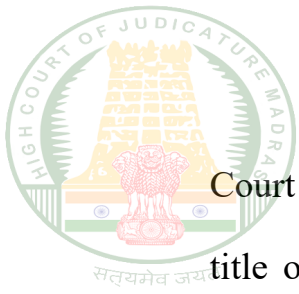


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holder, who filed an application for removal of obstruction. The said application was hotly contested by the petitioner and ultimately, the executing Court has allowed the application and directed removal of obstruction. It is thereafter that the revision petitioner has been dispossessed from the petition premises as well. At that stage, the revision petitioner has invoked Order XXI Rule 99 of CPC and contends that he is entitled to be heard. The executing Court, noting that the petitioner was, in fact, an obstructor, against whom the Order XXI Rule 97 application had been filed and the rights of the petitioner having been already adjudicated before delivery of possession, the petition under Order XXI Rule 99 of CPC is not maintainable.

10. The short point that arises for consideration in the present revision is as to whether a person, who had an opportunity to obstruct the execution under Order XXI Rule 97 of CPC can have a second shot at obstruction, by invoking Order XXI Rule 99 of CPC, after being dispossessed. In this regard, it would be useful to refer to the decisions that have been relied on by the learned counsel for the petitioner.

11. In *Brahmdeo Chaudhary's case*, cited supra, the Hon'ble Supreme



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Court held that a stranger to the decree, who claims an independent right, title or interest in the decreetal property, can offer resistance even before getting actually dispossessed, by taking resort to Order XXI Rule 97 of CPC. In fact, in the said decision, the Hon'ble Supreme Court at paragraph No.8(2) has held that if a stranger to a decree is already dispossessed relating to a property to which she claims any right before getting an opportunity to resist or offer obstruction on the spot on account of his absence from the place or for any other valid reason, then his remedy would lie in filing an application under Order XXI Rule 99 of CPC, claiming that his dispossession was illegal and that possession deserves to be restored to him. This decision is relied on by Mr.R.Abdul Mubeen to contend that the Hon'ble Supreme Court has held that a person can equally agitate his grievance and claim for adjudication of his independent right, title and interest in the decreetal property even after losing possession as per Order XXI Rule 99 of CPC. I am unable to countenance the argument of Mr.Abdul Mubeen in this regard.

12.Both Order XXI Rules 97 and 99 of CPC apply in different scenarios. Rule 97 comes into place where resistance is prior to execution and whereas Rule 99 becomes available to a person, who has been



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dispossessed. The enquiry, which is contemplated under both Rules 97 and 99 is only under Rule 101. In the present case, the revision petitioner was treated as an obstructor by the decree holder and an application for removal of obstruction was filed in E.A.No.4 of 2022 in the executing Court, after giving due and fair opportunity to the revision petitioner, has allowed the removal of obstruction petition. In such circumstances, it is interesting to see if the very same person, who agitated his rights in an application under Order XXI Rule 97 of CPC can additionally resort to Order XXI Rule 99 of CPC, merely because pursuant to the order of removal of obstruction, he has been dispossessed. The answer would be an emphatic no.

13. The avenue, that is made available under Rule 99 is only to persons who did not have an opportunity to obstruct the delivery warrant before execution. When admittedly the revision petitioners' claims have been adjudicated in the Order XXI Rule 97 of CPC application, it will not entitle the revision petitioner to once again re-agitate the very same issues, by taking out an application under Order XXI Rule 99 of CPC. The claim of the revision petitioner is not anything different from what he has taken in the Order XXI Rule 97 application. In such circumstances, when due enquiry



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has been conducted and orders have been passed under Order XXI Rule 101 of CPC, there is no purpose in permitting the petitioner over and again to canvas the same questions that have already been dealt with in the removal of obstruction petition. In view of the same, the application under Order XXI Rule 99 of CPC is clearly not maintainable.

14.Mr.R.Abdul Mubeen, learned counsel would also rely on the subsequent judgments of the Hon'ble Supreme Court, which have all followed the ratio laid down in *Brahmdeo Chaudhary's case* only. However, I have to deal with the decision of the Allahabad High Court in *Mst.Hashmi @ Batuil's case*, cited supra. That was a case where the Allahabad High Court had held that an application under Order XXI Rule 99 of CPC was maintainable and directed the executing court to enquire into the same on merits.

15.Very strong reliance is placed on the said decision by Mr.R.Abdul Mubeen, learned counsel for the revision petitioner. In the said case, a third party had filed an application under Order XXI Rule 99 of CPC, the Court finding that the earlier applications filed by the petitioner would not amount to *res judicata* held that the petitioner therein was entitled to maintain his



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application under Order XXI Rule 99 of CPC. In the case before the Allahabad High Court, the application that were filed by the petitioner prior to moving the application under Order XXI Rule 99 of CPC was for stay of the execution. The said application was dismissed on the ground of maintainability, finding that the relief of injunction granted in favour of the petitioner was in respect of a different property and not the property, which is the subject matter of the execution. Yet another application for stay was also dismissed on the ground that the earlier application for stay had been rejected. It was in these circumstances that the Allahabad High Court found that the claim of the petitioner had not been adjudicated on merits and held the application under Order XXI Rule 99 of CPC to be maintainable. However, in the present case, the facts are entirely different.

16. The petitioner's claim has already been adjudicated in the application for removal of obstruction. The petitioner is not setting up any new case after being dispossessed, excepting for invocation of Order XXI Rule 99 of CPC. The petitioner having not been successful in the Order XXI Rule 99 of CPC application cannot maintain a fresh application under Order XXI Rule 99 of CPC, merely because he has been subsequently dispossessed. The object of both Order XXI Rule 97, as well as Order XXI



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Rule 99 of CPC are to give an opportunity to strangers like the revision petitioner to have their rights adjudicated in the execution petition. It is not open to the petitioner to take recourse to both Order XXI Rule 97 of CPC, as well as Order XXI Rule 99 of CPC, especially, after having lost the battle in the Order XXI Rule 97 CPC application. In view of the above, I do not find any merit in the revision petition. There is no infirmity in the order of the executing Court, dismissing the Order XXI Rule 99 of CPC application as not maintainable.

17. In fact, the argument of the Mr. V. R. Thangavelu, learned counsel for the 1st respondent that having failed in his attempt to obstruct to the delivery in the application filed under Order XXI Rule 97 of CPC, the petitioner, would qualify to be a judgment debtor under Section 2(10) of CPC. I find force in the said submissions of the learned counsel for the 1st respondent.

18. Section 2(10) defines a judgment debtor to be a person against whom a decree has been passed or an order capable of execution has been made. Certainly, the revision petitioner is not a person against whom the decree has been passed in the instant case. However, once the application for removal of obstruction was allowed, then the revision petitioner is a person



against whom the order made is capable of execution which brings him within the ambit of “judgment debtor” as defined in Section 2(10) of CPC.

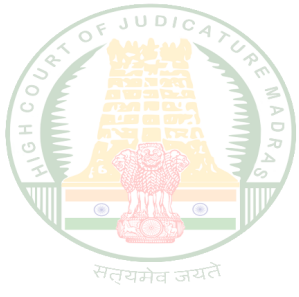
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If this interpretation is extended to the petitioner, then he also is to be treated as a judgment debtor and in which event, he cannot invoke Order XXI Rule 99 of CPC, which is available only to any person other than the judgment debtor. Even viewed from this angle, I do not see how the petition filed under Order XXI Rule 99 of CPC is maintainable. There is no merit in the revision.

19. In fine, the Civil Revision Petition is dismissed. No costs.
Connected Civil Miscellaneous Petitions are closed.

09.01.2026

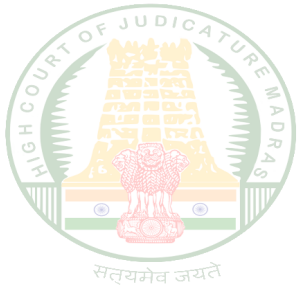
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To

The XIV Judge, Small Causes Court, Chennai.



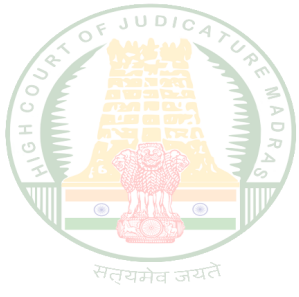
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P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.4639 of 2025
& CMP.Nos.23440 & 23441 of 2025



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