

Nayeem vs Arshad

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Court : Chennai

Decided On : Feb-27-2026

Judge : Honourable Mr.Justice P.B. Balaji

Appeal No. : CRP/324/2025

Appellant : Nayeem

Respondent : Arshad

Advocate for Def. : Mr. Mohamed Hasain

Advocate for Pet/Ap. : Mr. L.G. Sahadevan

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 16.02.2026 Pronounced on:27.02.2026

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI CRP. No.324 of 2025
Mrs.Nayeem Petitioner(s) Vs Mr.Arshad Respondent(s) PRAYER: This
Civil Revision Petition is filed under Section 115 of CPC, to set aside the
order dated 20.12.2024 in E.A. No.2 of 2024 in E.P. No.462 of 2024 on
the file of the XXVIII Assistant City Civil Court, Chennai. For Petitioner :

ORDER

The revision petitioner is the judgment debtor, challenging the dismissal of the Section 47 application filed by the petitioner, filed the present Civil Revision Petition.

2. I have heard Mr. L.G. Sahadevan, learned counsel for the petitioner and Mr. Mohamed Hasain, learned counsel for the respondent.

3. Mr.Sahadevan, learned counsel for the revision petitioner would state

that the respondent has filed OS.No.8787 of 2010 claiming to be the owner of the suit property, having acquired the same under a registered settlement deed executed by his mother, who is none else than the mother of the petitioner also. Mr.Sahadevan learned counsel for the petitioner would further state that the mother herself was not the actual owner, but only a benamidar of the father of the petitioner and the respondent, viz., late Abdul Mujeeb and therefore, the settlement deed is not valid, to be acted upon. The learned counsel would further state that even during the lifetime of the father, the mother of the parties had promised him that she would give the property equally to the two sons, viz., the petitioner and the respondent. The learned counsel would further state that the property itself is a Waqf property and the decree, therefore cannot be executed for the reason that the settlement deed itself, in the absence of sanction of the Waqf Board was void ab initio and hit by Section 51 of the Waqf Act.

4. Per contra, Mr. Mohamed Hasain, learned counsel appearing for the

respondent would state that the decree in OS.No.8787 of 2010 has become final and the contention now raised regarding the mother being a benamidar and that the Waqf Board is the owner of the property and its prior consent is necessary are all baseless and vexatious claims, only to defeat and deny the fruits of the

decree to the respondent. He would further state that a reference to Section 51 of the Waqf Act is also misplaced, since there is no intended alienation and admittedly the superstructure belonged to a private individual, viz., the mother of the petitioner and the respondent and she was at perfect liberty to settle the same and there was no necessity for any prior sanction from the Waqf Board. He would therefore pray for dismissal of the revision petition.

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

6. Pursuant to the decree, the petitioner has launched Execution

Proceedings for delivery of vacant possession from the petitioner/judgment debtor. The settlement deed in favor of the respondent remains unchallenged and the trial court has found that the petitioner has no right to continue to stay in the suit property. Therefore, the arguments in this regard cannot be countenanced.

7. Coming to the property belonging to the Waqf and the requirement of

Section 51 to be complied with, I do not see any merit in the said submissions. As rightly argued by learned counsel for the respondent, there is no alienation of Waqf property involved in the present case, requiring permission of the Board beforehand. The Waqf has not raised any dispute and has not initiated any proceedings against the respondent decree holder and therefore, the question of interplay of Section 83(1) of the Waqf Act also does not arise.

8. These apart, the very same objections were taken by the petitioner in

the suit before the Trial Court as well and once the Trial Court has answered all these issues in favor of the respondent and against the petitioner, the petitioner is not entitled to re-agitate the very same issues by filing a Section 47 application.

9. In this regard, the executing court has also relied on a decision of the

Hon'ble Supreme Court in Mumtaz Yarud Dowla Wakf vs. M/s. Balan Balakrishna Hotel Pvt.Ltd & Ors. reported in 2023 SCC Online SC 1378. Therefore, I do not see any merit in the revision petition warranting interference in the revision.

10. In fine, this Civil Revision Petition is dismissed. No costs.

27.02.2026 rkp Neutral Citation Case : Yes/No Internet: Yes/No Index : Yes/No
To: The Judge, XXVIII Assistant City Civil Court, Chennai P.B.BALAJI, J., rkp Pre-delivery order in CRP. No.324 of 2025 27.02.2026

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