



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2026

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 5962 of 2025 and CMP No.29471 of 2025

1. M/s.CHERAN CONSTRUCTION LTD

Rep. by its Authorised Representative

K.Anand, Having reg.office at 78,

Government Arts College Road, Cheran

Towers, Coimbatore - 641018.

Petitioner(s)

Vs

1. M/s.HATIM GLAZING AND

CLADING PVT LTD

Rep. by its Authorised Agent Mohammed

Abbas Modi, having reg. office at 64/65,

Husaini Ladka Bazar, 242, Ballasis Road,

Mumbai Central (East). Mumbai - 400008.

Chinnappan Gounder Chenniyappa

Gounder (deceased)

2.Kullanpalayam Krishnaswamy Sivakumar

Director, 78, Govt.Arts College Road,

Cheran Plaza, Coimbatore 641 018.

3.Marimuthu Rajavel

Addl.I Director, No.78, Govt.Arts College

Road, Cheran Plaza, Coimbatore 641 018.

Respondent(s)

For Petitioner(s):

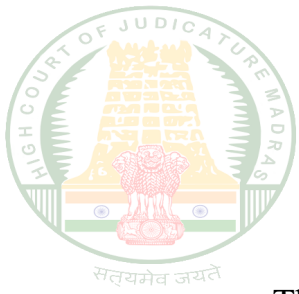
Mr.A.K.Sriram

Senior Counsel

For Mr.Vadiraj Anirudh S G

For Respondent(s):

No representation



ORDER

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The revision petition challenges the order in EP No.197 of 2011 dated 12.11.2025 on the file of V Additional District Court, Coimbatore.

2. Heard Mr.A.K.Sriram, learned Senior counsel appearing for the counsel for the petitioner.

3. Despite service of notice, the respondents have neither chosen to appear in person nor through counsel. Learned Senior Counsel, taking me through the impugned order, would state that the decree which was originally passed by the Bombay High Court by way of summary judgment in Summary Suit in A.S.No.152 of 2009 was only against the Company viz., M/s Cheran Construction Ltd, which alone was arrayed as the defendant in the suit. However, pointing out to the Execution Petition laid before the Principal District Court, Coimbatore in EP No.197 of 2019, the learned Senior Counsel would state that three additional respondents have been arrayed in the Execution Petition, though there were not defendants in the suit. Learned Senior Counsel also points out that there has been no application to proceed in execution, against the alleged Directors of the judgment debtor Company and straight away the execution petition has been filed. Pointing out to the relief sought for in the execution petition, learned Senior Counsel states that there is no explanation as to why the respondents 2 to 4 have been



added as judgment debtors in the execution petition and curiously relief is sought only against the Chairman and though it is mentioned that Means Affidavit has been filed, there is no consideration by the Court in this regard.

4. I have perused the order impugned in the revision petition. The Executing Court has merely noted that despite sufficient time being granted, counter has not been filed and setting the respondents exparte, the Court has straight away proceeded to order arrest. Though it is the specific case of the respondents/decreed holders that means affidavit has been filed, the Executing Court has not conducted any means enquiry which is mandatory under the provision of the Order XXI of Civil Procedure Code.

5. In any event, when the Company which is having a separate legal entity in law, suffers a decree, the execution petition can be proceeded only against the Limited company and not against Directors 2 to 4, unless it was shown to the satisfaction of the Court that the respondents 2 to 4 are guarantors/sureties, which is admittedly not so in the present case. Even in the decree, I find that the suit has been laid only against “Cheran Construction Ltd” as Defendant and none has represented the Limited Company. Therefore, the Executing Court ought not to have gone to the extent of ordering arrest of the Chairman, which is impermissible in law and that too in contravention of the provision of Order XXI of Civil Procedure Code.



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P.B.BALAJI, J

sr

6. In the light of the above, I am inclined to set aside the order of arrest. Accordingly, the order passed by the learned V Additional District Judge, Coimbatore in EP No.197 of 2019 dated 12.11.2025 is set aside and the Executing Court is directed to give an opportunity to the respondents to file a counter and thereafter decide the execution petition on merits and in accordance with law. It shall be open to the respondents/decreed holders to proceed against the defendant Company in a manner known to law.

7. With the above direction, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.01.2026

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Index:yes/no

Website:yes/no

Speaking Order/Non-speaking order

To

The V Additional District Court, Coimbatore

CRP No. 5962 of 2025