

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No.14092/2025

[Arising out of impugned final judgment and order dated 07-01-2025 in CMA No.1718/2015 passed by the High Court of Judicature at Madras]

P. SUMATHI

Petitioner

VERSUS

K. KRISHNA GOUNDER &amp; ORS.

Respondents

(FOR ADMISSION; I.A. No.124250/2025-EXEMPTION FROM FILING O.T.)

Date : 16-05-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA  
HON'BLE MR. JUSTICE PRASANNA B. VARALEFor Petitioner(s) :Mr. A. Hariprasad, Sr. Adv.  
Ms. Swathi H. Prasad, AORFor Respondent(s) :Mr. M. S. Vishnu Sankar, Adv.  
Ms. Udhaya P. S. Menon, Adv.  
Ms. Athira G. Nair, Adv.  
Mr. Aditya Santosh, Adv.  
M/S. Lawfic, AORUPON hearing the counsel the Court made the following  
O R D E R

1. *Prima facie*, we find that a decision of a coordinate Bench of this Court of recent origin in **Sriram Housing Finance and Investment V. Omesh Misra Memorial Charitable Trust**<sup>1</sup> strikes a discordant note with the law declared by a previous coordinate Bench in its decision in **Brahmdeo Choudhary V. Rishikesh Prasad Jaiswal & Anr.**<sup>2</sup> on interpretation of Order XXI Rule 97 of the Code of Civil Procedure, 1908<sup>3</sup>.

<sup>1</sup> (2022) 15 SCC 176<sup>2</sup> (1997) 3 SCC 694<sup>3</sup> CPC

2. While in **Sriram** (supra), Order XXI Rule 97, CPC has been read literally to permit an application only by the decree holder or by an auction purchaser, the decision in **Brahmdeo** (supra) expands the scope and permits any person who is under threat of dispossession to be also entitled to apply under the said rule.
3. An arguable case is set up by the petitioner. Issue notice.
4. Mr. M. S. Vishnu Sankar, learned counsel appearing for the respondent no.1-auction purchaser, accepts notice.
5. Service of formal notice on the respondent no.1 stands dispensed with.
6. List the special leave petition in the month of August, 2025.
7. Since the petitioner is still in possession of the decretal property, her possession shall not be disturbed without the leave of the Court.

(RASHMI DHYANI PANT)  
ASST. REGISTRAR-CUM-PS

(SUDHIR KUMAR SHARMA)  
COURT MASTER (NSH)