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C.R.P.Nos.530 and 531 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/2/2025

C O R A M

The Hon'ble **Ms.JUSTICE P.T.ASHA**

C.R.P.Nos.530 and 531 of 2025
a n d
C.M.P.Nos.3047 and 3050 of 2025

Shamala ... Petitioner
in both the petitions

Vs

E. Vijayalakshmi ... Respondent
in both the petitions

COMMON PRAYER: Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 17/12/2024 made in I.A.Nos.10 and 11 of 2024 in O.S.No.47 of 2015 on the file of the Principal District Munsif Court, Tiruvannamalai.

For petitioner ... Mr.S.Dinesh Babu

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COMMON ORDER

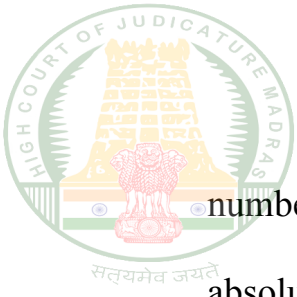
Challenging the dismissal of applications seeking to recall and reopen

the evidence of D.W.1, first defendant is the revision petitioner before this Court.

2. The facts are concisely set out herein below:-

The respondent/plaintiff had filed a suit in O.S.No.47 of 2015 on the file of the I Additional District Munsif, Tiruvannamalai, for declaring her right, title and interest over the suit property, directing the petitioner herein to deliver peaceful possession of the suit property free from all encumbrances, failing which permitting the respondent to take possession through the Court; declaring the alleged cancellation deed dated 13/10/2008 (Document No.11529/2008) as null and void; declaring the Power of Attorney (Document No.58/2009/BKIV) dated 6/3/2009 as null and void; and declaring the alleged sale deed dated 20/4/2009 as null and void.

3. The suit property is situate in Shri Mookambika Nagar, Vengikkal Village, Tiruvannamalai Taluk, Town and District, under various survey



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numbers, measuring a total extent of 1200 sq.feet. The suit property absolutely belongs to the third defendant in the suit who had purchased it under a registered sale deed dated 27/8/2004. On 9/11/2005, the third defendant had executed a settlement deed in favour of the respondent herein who was then a minor. On 13/10/2008, the third defendant cancelled this settlement deed under a revocation of settlement deed, registered as Document No.11529 of 2008. Thereafter, the third defendant had executed a registered General Power of Attorney dated 6/3/2009 in favour of the second defendant and the second defendant had sold the property to the plaintiff, under registered Document bearing No.3396 of 2009.

4. The third defendant is the mother of the respondent and the second defendant is the revision petitioner's husband. It appears that the third respondent was set ex parte in the suit and an ex parte order was passed against her. The revision petitioner had filed a written statement on 4/9/2015. On 4/3/2019, P.W.1 was cross examined and on 19/12/2022, D.W.1, viz., the revision petitioner was cross examined and cross examination was closed on 5/1/2023. On 21/10/2024, D.W.2 document writer was cross-examined and on 8/1/2025, D.W.3 who is the third party



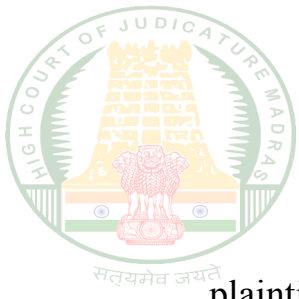
had filed a proof affidavit and the matter was adjourned to 1/2/2025 for cross-examination of D.W.3.

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5. The revision petitioner had originally filed an application to summon the third defendant for examination and the third defendant after receiving the summons had not appeared before the Court and warrant was issued against the third defendant. Thereafter, this application was closed. In the meantime, the revision petitioner had filed the applications that are impugned in these Civil Revision Petitions.

6. In the said application, the revision petitioner had contended that the respondent and her mother/third defendant lived jointly and to prove the same, she wanted to file photograph and videograph and for which purpose, she wanted to reopen the evidence of defendants and to recall D.W.1. The said application has been dismissed which has given rise to the present Civil Revision Petitions.

7. Heard Mr.K.Chandrasekar, learned counsel for the petitioner.



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8. The suit in question is one for declaring the title of the respondent/plaintiff to the suit property and thereafter, to declare certain documents as null and void. The plaintiff/respondent herein claims title to the property on the strength of a settlement deed said to have been executed in her favour by the third defendant on 9/11/2005. The defendants would claim that the settlement deed had been revoked, pursuant to which the third defendant, mother of the plaintiff/respondent herein had executed a Power of Attorney in favour of the revision petitioner's husband who on the strength of the Power of Attorney, has executed a sale deed in favour of the revision petitioner. The defendants had taken a stand that the settlement deed in favour of the respondent/plaintiff has never been acted upon and that the third defendant as the owner of the property had dealt with the same by executing the Power of Attorney in favour of the second defendant, who in turn had executed a sale deed in favour of his wife, the revision petitioner. Therefore, the documents which are sought to be now marked for which reopen and recall was sought for is without any basis, as the documents are not germane for the disposal of the suit. The learned District Munsif has rightly dismissed the applications and hence, I do not see any reason to interfere with this well considered judgment.



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mvs.

9. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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mvs.

Index: Yes/No

Neutral citation: Yes/No

To

The Principal District Munsif Court, Tiruvannamalai.

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