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C.R.P.No.1175 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.1175 of 2025

&

C.M.P.No. 7074 of 2025

1. C.R.Vasanthi

2. C.R.Devanand

3. C.R.Varalakshmi

...Petitioners

Vs.

1. The Commissioner, HR & CE,
Uttamar Gandhi Salai
Nungambakkam,
Chennai – 600034.

2. The Executive Officer
Sri Mupilliamman Dewasthanam
Villivakkam, Chennai – 600049.

M.S.Ramachandran (Deceased)



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3.M/s.Doshi Developers and Builders Pvt., Ltd.,
Rep. by its Director Harshad V. Doshi (Deceased)
Presently by its Director Mehur H. Doshi
S/o. Harshad V.Doshi
Doshi Towers, 9th Floor,
156, Poonamallee High Road,
Kilpauk, Chennai – 600010.

4.Yashumathi Doshi

5.M.R.Suganya

6.M.R.Sivakumar

7.G.Ambika

...Respondents

*(Cause title accepted vide Court order dated 12.03.2025 made in
C.M.P.No.5725 of 2025 in CRP.Sr.No.21393 of 2025).*

Prayer: Civil Revision Petition is filed under Article 227 of the
Constitution of India against the order dated 24.01.2025 passed in
IA.No.5 of 2024 in OS.No.7461 of 2019 pending on the file of the I
Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr. K.Mani

For Respondents : Mr. D.Gopal
1 & 2 Government Advocate.



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ORDER

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Challenging the order of the I Additional Judge, City Civil Court, Chennai, in IA.No.5 of 2024 in OS.No.7461 of 2015, the plaintiffs are the petitioners before this Court. The said application has been filed to allow the petitioners to produce and mark Ex.P.24 series to Ex.P.40 as additional documents. The facts of the case are set out briefly herein below.

2. The plaintiffs had originally filed a suit before this Court in CS.No.276 of 2011 seeking a declaration that they are the easmentary right holders of the passage more particularly described in B schedule property, delineated in the colour blue annexed to the plaint to an extent of 30 feet in width and length of 700 feet or thereabouts for the use by the plaintiff to enter the A schedule property. They claimed way through an easement of necessity, prescription, Accessory rights and grant. They sought for an for injunction restraining the 3rd to 5th defendants from interfering with the peaceful enjoyment of this passage and for an injunction restraining 3rd to 5th defendants from putting up



any further construction in or near the passage more particularly described in B schedule property.

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3. The case of the plaintiffs is that one C.K.Rajaram and C.K.Venkataram were running a partnership firm in the name and style of Madras Can Factory. They had purchased an extent of 1.25 acres of land from M/s. Madras Oil and Fertilizers Pvt., Ltd., under a registered sale deed dated 10.06.1970. The property is situate in S.No.181/1A, TS.No.44, Block 28 and comprised in Patta No.23, and described in the A schedule property to the plaint.

4. Thereafter, the brothers along with their wives and sons entered into an agreement dated 07.09.1985 dividing the HUF properties between them. Under this agreement, the A schedule property was allotted to the share of the C.K.Rajaram. The said Rajaram was carrying on the business in the said premises and after he fell ill, the business was closed and the factory premises comprising of industrial sheds were let out to various persons.



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5. The 1st plaintiff is the wife of C.K.Rajaram and the plaintiffs 2 to 4 are his children. The said Rajaram passed away on 21.11.1994 leaving behind him surviving the plaintiffs as his legal representatives and they have been in joint possession of the A schedule property.

6. The plaintiffs would further contend that the access to their property from the Madras – Thiruvallurvar High road (MTH road) is through the passage measuring 30 feet wide and 600 feet long passage, and the greater part of this passage is on the lands belonging to Arulmigu Sri Muppiliamman Dewasthanam, Villivakkam, Chennai. They would also submit that B schedule property (passage) was in use even prior to their purchase.

7. The plaintiffs would submit that they are the tenants in a portion of the land measuring 200 sq.mtrs., with a building along with the right of passage from the year 1972 in the land which adjoins the northern side of the premises of Madras Can Factory which land



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belongs to the aforesaid Dewasthanam.

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8. From the year 1972 the said Rajaram was in possession of this building and was paying a rent of Rs.1000/- per month on the directions of this Court till date. In the year 1967 the trustees of the Dewasthanam had filed a suit in OS.No.154 of 1967 on the file of the District Munsif, Poonamallee against V.R.Raghava Pillai and the M/s.Madras Oils & Fertilizers Pvt., Ltd., (predecessors in title of the plaintiff) and 5 others for declaration in respect of 7.46 acres in S.No.166, Villivakkam Village. This suit was later transferred to the file of this Court and re-numbered as CS.No.330 of 1975. Ultimately the suit was decreed on 13.02.1981 wherein it was held that the property belonged to Dewasthanam. Thereafter, the Madras Oils and Fertilizers went into liquidation and the Official Liquidator took over the company.

9. When the plaintiffs' possession was disturbed by Official



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Liquidator in OA.No.728 of 1981 the plaintiff had filed OSA.No.213 of 1984 and a memorandum of compromise came to be entered into where under for the 200 sq.mts., of land the plaintiff had agreed to pay a rent of Rs.1000/- and pursuant to the order the plaintiff has also been regularly paying the rent.

10. In the month of July 2010 the employees of the 4th and 5th defendants who had allegedly purchased a portion of the land from the 3rd defendant started constructing a compound wall adjacent to the passage described as the B schedule property. If the compound wall is constructed the access of the plaintiff to their lands from the road would be cut off. Therefore, the plaintiffs have come forward with the suit in question.

11. The 2nd defendant / Executive Officer has filed written statement denying the plaintiffs' claim of easementary over the B schedule property and they have categorically stated that the plaintiffs have no right of easement over the same besides raising other defenses.



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12. The defendants 4, 5 and 6 to 8 have also filed their written statement denying the use of the B schedule property by the plaintiff.

13. At the stage of arguments the plaintiffs have come forward with the petition in question to produce documents. In the affidavit filed in support of the petition the petitioners would state that the Advocate Commissioner in his report in Ex.C.1 dated 13.12.2012 has mentioned the existence of the B schedule pathway as described in the plaint. The 2nd plaintiff in his cross examination dated 16.06.2016 by the 1st defendant had clearly submitted that they have no other access to reach A schedule property except the access through the B schedule property. Therefore, they would submit that in order to support the commissioner's report and cross examination of P.W.1 and P.W.2, it is necessary to mark additional documents more explicitly the said documents.

14. The petitioners would further submit that the documents are



required to prove that they are still running an industry in the A schedule property. The plaintiff also sought to file the Google pictures.

15. The said application has been resisted by the respondent by contending that the conduct of the petitioners would clearly show that their only intent is to protract proceedings. The 2nd petitioner, the son of the 1st petitioner had been examined as P.W.1. They have also examined a tenant under them as P.W.2. The Advocate Commissioner has been examined as Court witness C.W.1 and the report submitted by him was marked as Court exhibits. The 2nd defendant was examined as D.W.1 and the 7th defendant was examined as D.W.2.

16. The respondents would submit that nowhere in the petition the petitioners have stated as to why the documents were not produced earlier but produced at the stage of the arguments. They would also contend that the suit has been pending for 13 years from 2011 and after the transfer in the year 2021, the petitioners were once again taking time to examine the witness. The petition is being moved at the stage



of arguments and it is one among the many that has been moved by the petitioners and it is a sheer abuse of process of Court.

17. The learned Trial Judge dismissed the application and in Para No.4 the learned Trial Judge held that no reasons have been given in the application in order to entertain the said application. The learned Trial Judge has also observed that when the matter was posted for arguments the petition has been filed without setting out reasons. The learned Trial Judge has also observed that the petitioners are only keen on procrastinating the proceedings. Therefore, the petition was dismissed.

18. Challenging the same the petitioners are before this Court.

19. Heard the learned counsels and perused the records.

20. The petitioners at the stage of arguments have come forward



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with this application to mark documents to show their possession of the A schedule property. A perusal of the documents would clearly show that many of them have been in the possession of the petitioners much before the suit. Further, the evidence had been closed. No steps had been taken at that point in time to file these documents and the same is sought to be filed at this stage when the matter is posted for arguments. The suit has been filed with reference to the use of the passage. The document filed does not relates to the B schedule property.

21. Further, no reasons for the delay in filing the impugned application has been set out in the affidavit filed in support of the application though an elaborate affidavit has been filed. Therefore, as observed by the learned Trial Judge the application is made only to protract the proceedings.

22. The learned Trial Judge has rightly dismissed the application.



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The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No

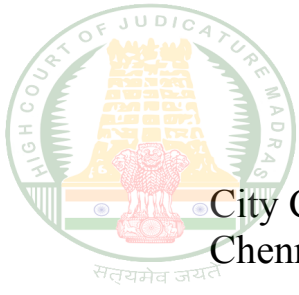
Internet : Yes/No

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To

The I Additional Judge,

12/14



City Civil Court,
Chennai.

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P.T. ASHA, J,

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