



C.R.P.No.2140 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

**C.R.P.No.2140 of 2024
and CMP.No.11348 of 2024**

M/s.Shree Jayalakshmi Binding Works
A Partnership firm rep by its Partners,
1)Mr.K.S.Sekhar Naidu
2)Mr.K.S.Praveen
Old Door No.30, New No.52,
Badrian Street, Chennai – 600 001.

...Petitioner

Vs.

Voora Sriramulu Chetty's Charities
Rep by its Trustees,
P.B.R. Viswanathan (deceased)
1.C.Sunandan
2.P.Madhusudhan
3.V.Ashok Gandhi

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decreetal order dated 18.01.2024 passed in I.A.No.5 of 2023 in A.S.No.40 of 2022 on the file of the learned V Additional Judge, City Civil Court, Chennai and to allow the Civil Revision Petition.



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For Petitioners : Mr.R.Krishna Prabhu

For Respondents : Mr.K.S.Sundar

ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. The revision petitioners are the unsuccessful defendants in a suit for recovery of possession, filed by the respondent trust. Pending the appeal, the appellant / revision petitioner took out an application under Order 41 Rule 27 of CPC in I.A.No.5 of 2023. The said application was resisted by the respondent on the ground that the document that was sought to be introduced in the appeal was not only irrelevant, but it is also a judgment of Court which has been pronounced subsequent to the decision by the Trial Court.

3. The learned counsel for the respondents would also state that there is no infirmity in the order of the First Appellate Court dismissing the application in I.A.No.5 of 2023.



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4. I have carefully considered the submissions made on either side.

5. Admittedly, the First Appeal is pending, challenging the judgment and decree in O.S.No.4723 of 2018. Pending appeal, the appellant who is the revision petitioner herein, sought to place reliance on the judgment passed in a different suit. As rightly contended by the learned counsel for the respondent, the judgment which is sought to be now relied was delivered on 16.12.2022, which is subsequent to the judgment which is under challenge in the present appeal. However, the First Appellate Court ought to have taken up the application under Order 41 Rule 27 of CPC at the time of considering the appeal on merits and not independently. The law on the point is well settled by judgments of this Court as well as the Hon'ble Supreme Court. Therefore, though I do not find any error in the reasoning of the First Appellate Court, in view of the erroneous approach adopted by the First Appellate Court, I am inclined to set aside the order under challenge. The application under Order XLI Rule 27 CPC shall be decided along with the appeal, on merits and taking into account the objection of the respondent regarding the relevancy of the document as well.



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6. This Civil Revision Petition is allowed with the above observations. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : No
Internet : Yes
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To

The learned V Additional Judge, City Civil Court, Chennai.

P.B.BALAJI. J.

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