



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 13.08.2025

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**THE HONOURABLE MR JUSTICE P.B. BALAJI**

CRP.Nos.2003, 2004 & 2005 of 2024  
& CMP.Nos.10635, 10641 & 10647 of 2024

T.Mathialgan

... Petitioner in all CRPs

Vs.

1.Saidapet Depressed Co-operative Society,  
Rep. by its President,  
No.74, West Jones Road,  
Saidapet, Chennai – 600 015.

2.L.Ambedkar

3.D.Lakshmi

... Respondents in all CRPs

**Common Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 22.03.2024 made in I.A.Nos.4, 6 & 5 of 2023 in O.S.No.2117 of 2015 respectively on the file of the VII Assistant City Civil Judge, Chennai, by allowing the revision.

(In all CRPs)

For Petitioner : Mr.A.V.Arun

For Respondents : Mr.N.Kumar Rajan for R1  
Mr.P.Arvind for R3  
No appearance for the R2



## **COMMON ORDER**

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These revisions have been filed to set aside the order dated 22.03.2024 made in I.A.Nos.4, 6 & 5 of 2023 in O.S.No.2117 of 2015 respectively on the file of the VII Assistant City Civil Judge, Chennai.

2.Heard Mr.A.V.Arun, learned counsel for the petitioner, Mr.N.Kumar Rajan, learned counsel for the 1<sup>st</sup> respondent and Mr.P.Arvind, learned counsel for the 3<sup>rd</sup> respondent in all the revisions.

3.The learned counsel for the petitioner would state that the suit having been filed to declare the Resolution of the 1<sup>st</sup> defendant as null and void and not binding on the plaintiffs and to consequently declare the Sale Deeds that have been executed, pursuant to the said Resolution also to be null and void and not binding on the plaintiffs. The attempt of the plaintiffs to call upon D.W.1 to produce the Resolution dated 18.12.2011, which is the subject matter of the suit, ought not to have been dismissed by the Trial Court. He would further state that it is only in cross-examination of D.W.1, D.W.1 admitted that such a Resolution was passed contrary to the stand taken in the written statement and that there is no such Resolution.



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Immediately thereupon the plaintiffs have called upon the counsel for the defendants by issuing a notice to produce the said Resolution. However, in spite of the said notice, according to the revision petitioners, copy of the Resolution was not filed and therefore, the same necessitated the plaintiffs to take out the application to reopen and recall D.W.1 for the purposes of receiving the Resolution dated 18.12.2011.

4.The learned counsel for the 1<sup>st</sup> respondent would state that the request for the notice to produce was by way of undated letter, that too, the suit was posted for arguments and he would further state that the 1<sup>st</sup> defendant cannot be compelled to produce the Resolution dated 18.12.2011. He would therefore pray for dismissal of the revisions.

5.I have carefully considered the submissions advanced by the learned counsel on either side.

6.The suit is for declaration that the Resolution dated 18.12.2011 passed by the 1<sup>st</sup> defendants is unenforceable and not binding on the plaintiffs and for declaration that the the Sale Deed dated 12.02.2012



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executed by the 1<sup>st</sup> defendant in favour of 2<sup>nd</sup> defendant, pursuant to the Resolution dated 18.12.2011 was also null and void and not binding on the plaintiffs. Even in the plaint, I find that the plaintiffs have specifically averred that they did not have the copy of the said Resolution and they came to know about the alleged Resolution only from the contents of the Sale Deed executed in favour of the 2<sup>nd</sup> defendant. Further, the learned counsel has specifically contended that when the defendants had taken a stand that there was no such Resolution passed by the 1<sup>st</sup> defendant, but however, D.W.1 has admitted that there was a Resolution passed on 18.12.2011. Therefore, the plaintiffs cannot be found fault with the exercise of issuing a notice to produce the Resolution dated 18.12.2011.

7. At the same time, as rightly contended by the learned counsel for the 1<sup>st</sup> respondent, the 1<sup>st</sup> defendant cannot be compelled to produce the document which may be adverse to his interest. However, it is always open to the Trial Court to draw adverse inference from the fact that the plaintiffs have taken all efforts to have the Resolution produced before the Court. Further, the Trial Court shall also take note of the fact that the Sale Deed executed by the 1<sup>st</sup> defendant in favour of the 2<sup>nd</sup> defendant refers to the said

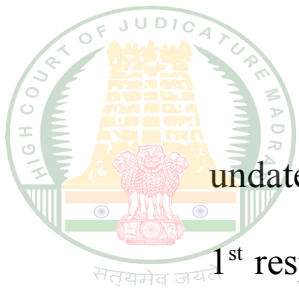


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Resolution dated 18.12.2011. Therefore, I do not find any necessity for reopening and recalling of D.W.1 for the purposes of receiving the Resolution dated 18.12.2011, which in any event, has not been filed along with the plaint and now, the suit is at the stage of passing of judgment. In the light of the above, to enable the Court to even draw adverse inference or decide otherwise, unless the letter calling upon the defendants to produce the Resolution dated 18.12.2011 and reply, if any are available, the Trial Court will not be in a position to draw adverse inference.

8.It is the contention of the 1<sup>st</sup> respondent that only after the matter was reserved for judgment, the said notice to produce was given. Therefore, it is open to the Trial Court to take note of the factum of notice to produce the documents as well as the same having been received by the respondents on 19.07.2023, after the suit was reserved for judgment. The Trial Court shall take into account all these factors, after marking the undated notice to produce and the acknowledgement dated 19.07.2023 as plaintiff's exhibits.

9.In view of the above, the Civil Revision Petitions are disposed of with a direction to the VII Assistant City Civil Court, Chennai, to mark the



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undated notice to produce, which has been received by the counsel for the 1<sup>st</sup> respondent on 19.07.2023 and the same can be taken and marked on the side of the plaintiffs and given exhibit numbers, depending on the exhibits already marked on the side of the plaintiffs. The Trial Court shall take into account the effect of the said notice to produce, including the same being undated and the effect of the same, subject to the contentions of the counsel for the respondents at the time of arguments.

10.I have also found that the Trial Court has imposed a heavy of cost of Rs.10,000/- in each of the applications. I do not find that the conduct of the petitioners warrants imposition of costs in the circumstances of the case which has been discussed herein above. In the light of the above, the direction to pay costs of Rs.10,000/- in each of the application is set aside. The suit shall be disposed of within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

13.08.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

The VII Assistant City Civil Judge, Chennai.

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**P.B. BALAJI,J.**

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