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A.Nos.2052 & 2053 of 2025
in C.S.No.474 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

**A.Nos.2052 & 2053 of 2025
in C.S.No.474 of 2013**

A.Nos.2052 & 2053 of 2025:

K.MADHAVAN NAIDU (Deceased)

1.K.Radhadevi

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

2.K.Ramesh

S/o.K.Madhavan Naidu

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

3.K.Shakila

W/o.Mr.K.Ramesh

W/o.Madhavan Naidu,

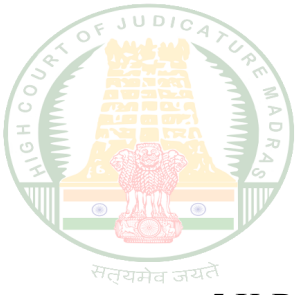
Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

4.K.Ramya

D/o.K.Ramesh

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.



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5.K.Rithish
S/o.K.Ramesh
W/o.Madhavan Naidu,
Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

Applicant(s) in both cases

Vs

1.RAJINI BALAKRISHNAN
W/o.Dr.G.Balakrishnan,
No.83, Mayor Ramanathan, Chetpet,
Chennai 600 031.

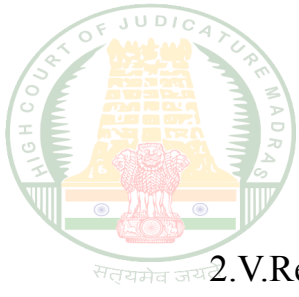
2.V.Revathi
W/o.Mr.V.Jagadesh,
Nallur Kamarapalayam Village, Ponerri Taluk,
Thiruvallur District 601 203.

3.Rama Gunasekaran
W/o.Mr.G.Gunasekaran,
NO.HIG 102, New ASTC HUDCO Hosur,
Krishnagiri 635 109.

Respondent(s) in both cases

C.S.No.474 of 2013:

1.Rajini Balakrishnan
W/o.Dr.G.Balakrishnan,
No.83, Mayor Ramanathan Road, Chetpet,
Chennai 31



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2.V.Revathi

Nallur Kamarapalayam Village, Ponneri Taluk,
Thiruvallur District

3.Rama Gunasekaran

No.HIG 102, New ASTC HUDCO Hosur,
Krishnagiri District

Applicant(s)

Vs

K.MADHAVAN NAIDU (Deceased)

1.K.Radhadevi

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

2.K.Ramesh

S/o.K.Madhavan Naidu

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

3.K.Shakila

W/o.Mr.K.Ramesh

W/o.Madhavan Naidu,

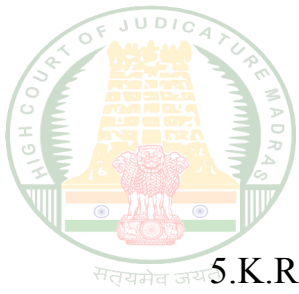
Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

4.K.Ramya

D/o.K.Ramesh

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.



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5.K.Rithish

S/o.K.Ramesh

W/o.Madhavan Naidu,

Plot No.16/A-2, Akshaya Colony First Avenue,
Mogappair, Chennai 600 050.

Defendant(s)

Common Prayer in A.Nos.2052 & 2053 of 2025:

Application filed under Order XIV Rule 8 of the Original Side Rules r/w Order XVIII Rule 17 CPC to reopen the plaintiffs' evidence in C.S.No.474 of 2013, which was closed on 20/12/2021 and to issue warrant of subpoena to Rajini Balakrishnan, first Plaintiff in C.S.No.474 of 2013 to depose before this Court.

For Applicant(s): Mr.R.Thiagarajan

For Respondent(s): Mr.T.V.Krishnamachari

COMMON ORDER

Both these applications have been filed by the defendants in the suit seeking to reopen the evidence of the plaintiffs, which was closed on 20.12.2021 and to issue warrant of subpoena to the first plaintiff to depose and tender evidence.



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2. Perusal of the record shows that on behalf of the plaintiffs, the third plaintiff had tendered evidence as PW1. She had marked exhibits P1 to P27. She had also been substantially cross-examined on behalf of the defendants. As a matter of fact, in the counter affidavit filed, it had been mentioned that she had been cross-examined on thirty seven separate hearings between 2017 and 2021. During the course of cross-examination, the learned counsel for the defendants had confronted her with certain documents, over which, she denied knowledge. Thereafter, the defendants' side evidence was recorded and DW1 initially marked exhibits D1 to D62. Subsequently, the documents, which had been confronted were marked after obtaining the orders of this Court as D63 to D84.

3. Now, these applications have been filed by the defendants seeking to issue summons to the first plaintiff to speak about the exhibits D63 to D84.

4. It is trite in law to point out that a party to the suit cannot be compelled to tender evidence by the other side. If a party to the suit does not



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volunteer to tender evidence, then, depending on the circumstances, arguments can be put forth to draw adverse inference owing to the non-appearance of the said party to tender evidence. But, there cannot be an order and compel a party to the suit to come forward and tender evidence, particularly, at the instance of the other side. The defendants are at liberty to argue that the non-examination of the first plaintiff should be noted by the Court and the Court should draw adverse inference against the plaintiff in that regard. That is an aspect, which could be determined at the time of examination of the evidence recorded in entirety and not at this stage.

Hence, both the applications stands dismissed, however, leaving it open to the learned counsel for the defendants to argue on the conduct of the first plaintiff in not appearing and tendering evidence before the Court.

09-06-2025

nsd
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



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C.V.KARTHIKEYAN J.

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