

CRP.Nos.1562 & 1564 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 18.08.2025

Order pronounced on : 04.09.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.1562 to 1564 of 2025
& CMP.Nos.9088, 9094 & 9097 of 2025

1.C.Muthusamy
2.Thamayanthi

..Petitioners in all CRPs

Vs.

1.The Erode Handloom Cloth Merchants'
Association, rep. by its President,
No.18, East Gengalamman Koil Street,
Erode – 600 009.

2.The Erode Cloth Merchants' Association
rep. by its President,
No.18, East Gengalamman Koil Street,
Erode – 600 009.

3.C.B.Gunasekaran
4.P.Ravichandran
5.S.Kandasamy

..Respondents in all CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 10.02.2025 made in I.A.Nos.2, 3 & 4 of 2024 in O.S.No.401 of 2014 on the file of the Principal District Munsif Court, Erode.



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CRP.Nos.1562 & 1564 of 2025

For Petitioners : Mr.N.Manoharan in all CRPs

For Respondents : Mr.V.S.Kesavan in all CRPs

COMMON ORDER

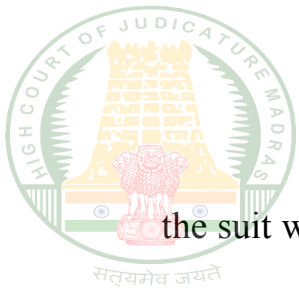
These revisions are at the instance of the 1st defendant in O.S.No.40 of 2014.

2.I have heard Mr.N.Manoharan, learned counsel for the petitioners and Mr.V.S.Kesavan, learned counsel for the respondents in all the revisions.

3.The short point that arises for consideration in these revisions is as to whether I.A.Nos.2 and 3 and 4 of 2024 that were taken out by the revision petitioners ought to have been allowed by the Trial Court.

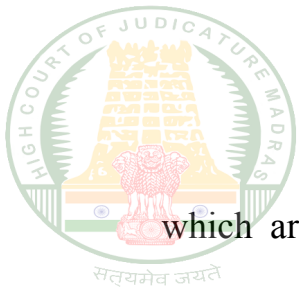
4.The suit has been filed for declaration to declare the Sale Deeds executed by the 1st defendant in favour of the 2nd defendant in respect of item Nos.1 and 2 of the suit property, as null and void, fraudulent and not binding upon the plaintiff and for consequential permanent injunction to restrain the defendants from encumbering or alienating the suit properties as well as from interfering with the plaintiff's peaceful possession and enjoyment of the same.

5.The learned counsel for the revision petitioner would state that when



the suit was posted for arguments, these applications were necessitated, in order to receive additional documents and for which purpose, formal reopen and recall petitions were also filed. However, according to the learned counsel for the petitioners, the Trial Court erroneously dismissed all the applications, contending that the Trial Court ought not to have gone into the relevancy of the documents at the stage of testing whether the additional documents are to be received or not. In this connection, the learned counsel for the petitioners has placed reliance on the decision of this Court in *K.Kasturi and Others Vs. C.Mohan and Others*, reported in 2007 1 L.W 560, where this Court held that the right of a party to file documents at the time of hearing of the suit, if said documents have not been filed along with the plaint, is retained even after the amendment to the CPC by Act 22 of 2002 and at the stage of a request for receiving additional documents, what is required is only the leave of the Court and it is always open to the opponent to object to the documents being marked as exhibits at the appropriate stage. The learned counsel for the petitioners would therefore pray for the revision being allowed.

6.Per contra, the learned counsel for the respondents would state that the documents are not in any way related to the suit claim or the cause of action and there is also no pleading in the plaint regarding the said additional documents



which are death certificates. He would therefore state that rightly, the Trial Court has thought it fit to dismiss the application.

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

8.No doubt, the plaintiffs took out the applications after trial had concluded and the suit was posted for arguments. At that stage, the plaintiffs sought for reopening the evidence and recalling P.W.1 for the purposes of marking certain death certificates, contending that the fraudulent Sale Deeds were brought about through a Power of Attorney and in order to establish the fraud played, the death certificates ought to be brought to the notice of the Court. The said applications were resisted by the respondents, stating that the deceased persons had nothing to do with the suit property and neither they nor their legal representatives were parties to the suit and therefore, these documents were not necessary.

9.On enquiry, the Trial Court dismissed the applications, finding that the applications were taken out belatedly and further, the death certificates were not relevant to decide the issue before the Court. According to the revision



petitioners, Muthusamy Gounder, Nallasamy, Kumarasamy Gounder, Muthu Gounder and M.Sukumar were parties to Sale Deed dated 10.05.2013 and before the date of the execution of the Sale Deeds, the said persons had died and therefore to establish the same, which would consequently also confirm that the Sale Deeds were fraudulent, the death certificates were sought to be brought on record. The Trial Court has also found that neither these persons nor their legal representatives had questioned the power of attorney and therefore, it is not necessary that the death certificates have to be marked in the present suit.

10.On going through the plaint, I find that even in the pleadings, there is a clear mention of the Sale Deeds being executed by the power agent of dead persons and therefore, it may not be right to contend that there is no pleading in this regard. The suit has been filed for substantial reliefs of declaration alleging fraud committed by the defendants in brining about the Sale Deeds in favour of the 2nd defendant. Therefore, it cannot be contended that the death certificates that are now sought to be marked are not relevant for the suit claim.

11.Further, as held by this Court in *K.Kasthuri's case*, comparing Order VII Rule 14 of CPC before and after the Amendment Act 46 of 1999 and Act 22



of 2002, this Court held that prior to amendment the plaintiff was merely required to furnish a list of documents relied upon by him, whether in his possession or power or not. However, after amendment of Act 46 of 1999, Rule 14 sub rule 2 of Order VII requires the plaintiff to state in whose possession or power a particular document is, if it is not in his own possession or power. Referring to Order XIII of CPC and noticing the language employed in Rule 2 and newly introduced sub rule 3 by Act 22 of 2002, it does not take away the right of a party to file a document at the time of hearing of the suit, if such document has already not been filed along with the plaint. The plaintiff was required to take the leave of the Court and even the words “good cause” that was appearing in Order XIII Rule 2 before the amendment are not found after the amendment.

12.This Court also placed reliance on the decision of the Hon'ble Supreme Court in *Madanlal Vs. Shyamlal*, reported in (2002) 1 SCC 535, where it was observed that power under Order XIII Rule 2 of CPC (before amendment) should be exercised liberally and despite “good cause” being required to be shown, only a lesser degree of proof than that of sufficient cause was to be shown by the party. This Court also held that when the words “good cause” have been omitted by the Amendment Act 22 of 2002, the plaintiff was



entitled to file additional documents, with the leave of the Court and held that the defendants can always be objected when they were being marked as exhibits, at the appropriate stage, if there being any valid ground for such opposition.

13. In fact, even in the said case, a similar contention that the documents sought to be filed are not supported by pleadings was raised and this Court brushed aside the said objection on the ground that the stage of such opposition had not yet come and it would arise only when the documents are sought to be marked as exhibits. The above ratio is squarely applicable to the facts of the present case as well. The petitioners have shown cause as to why these documents are necessary and the only requirement being to obtain leave of the Court and the additional burden of showing good cause also not being retained under Order XIII Rule 2 of CPC after the amendment, the Trial Court should have allowed the applications. No prejudice would be caused to the respondents if the documents are received, as it would always be open to them to object to the admissibility or relevancy of the documents at the stage of the plaintiffs attempting to mark the said documents. In the light of the above, I am inclined to set aside the order of the Trial Court. For the purposes of receiving the additional documents, the other applications for reopening and recalling P.W.1



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are also necessitated and therefore all these applications ought to have been entertained by the Trial Court.

14.In fine, the Civil Revision Petitions are allowed and the order dated 10.02.2025 made in I.A.Nos.2, 3 & 4 of 2024 in O.S.No.401 of 2014 on the file of the Principal District Munsif Court, Erode, is set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

04.09.2025

Speaking/Non-speaking order
Index : Yes/No
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To

The Principal District Munsif Court, Erode.

P.B.BALAJI.J.

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Pre-delivery order made in
CRP.Nos.1562 to 1564 of 2025
& CMP.Nos.9088, 9094 & 9097 of 2025

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