



C.R.P.No.1849 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.1849 of 2025

and

C.M.P.No.10680 of 2025

L.Muniyandi

... Petitioner

Vs.

L.Kalidass

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the learned V Additional Judge, City Civil Court, Chennai, dated 12.03.2025 made in I.A.No.5 of 2024 in A.S.No.117 of 2015.

For Petitioner : Mr.S.Vasudevan

For Respondent : Mr.E.Prabu

ORDER

Page 1 of 6

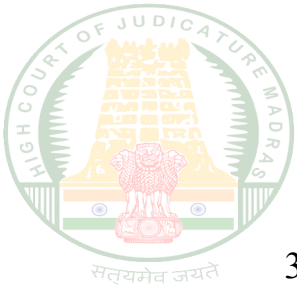


C.R.P.No.1849 of 2025

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Challenging the order of the Appellate Court allowing the application for reception of additional documents and receiving the documents in evidence without following any procedure, the present revision has been filed.

2.The suit in O.S.No.6039 of 2013 was originally filed by the petitioner for permanent injunction. The issue in the suit is in respect of car parking. The said suit was dismissed by the trial Court. Against the dismissal of the suit, the plaintiff has filed the appeal in A.S.No.117 of 2015. When the matter stood thus, the respondent has filed the present application in I.A.No.5 of 2024 in A.S.No.117 of 2015 under Order 41 Rule 27 CPC to receive the registered sale deeds and settlement deed as additional evidence in the said appeal. The said application was allowed by the Appellate Court on the ground that reception of the said documents will not prejudice the case of the appellant. Challenging the same, the present revision has been filed.



C.R.P.No.1849 of 2025

WEB COPY

3.Learned counsel for the petitioner would submit that the present application is not maintainable on the ground that, though the documents now sought to be produced as additional evidence were well within the knowledge of the respondent, the respondent failed to produce the same before the trial Court, and therefore, they cannot now seek to produce the same as additional evidence in the appellate stage. The main issue in the suit is between the brothers with regard to parking of vehicle and now, the present application has been taken out in the appellate stage as if the property has been purchased jointly by the respondent only for the benefit and enjoyment of the family members. The learned counsel would further submit that the Appellate Court has not followed the procedure for reception of additional evidence, while allowing the present application.

4.Though the learned counsel made his submissions on the merits of the application, this Court finds that the Appellate Court, while allowing the application, has not even followed the procedure as set out under Order 41 Rule 28 CPC and has straight away received the documents as additional evidence. Once an application under Order 41 Rule 27 CPC for reception of additional evidence is allowed, the proper method is to take such evidence

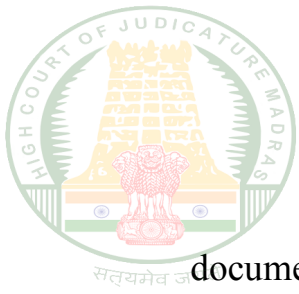


C.R.P.No.1849 of 2025

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as per Order 41 Rule 28 CPC, is that the additional evidence can be taken either by the Appellate Court or the Appellate Court may direct the trial Court to take such evidence and thereafter, dispose of the appeal. However, the Appellate Court, without following such procedure, has straight way received the documents, without any basis and without providing an opportunity to the other side to cross examine the witness to confront the witness with the documents. This, in the view of this Court, is against law and hence, the order of the Appellate Court receiving the documents on record without following procedure alone is set aside. However, order allowing additional evidence is confirmed.

5. Therefore, without going into the merits of the application filed under Order 41 Rule 27 CPC, this Court sets aside the order of the Appellate Court insofar as receiving the documents straight away without following the procedure for taking additional evidence as contemplated under Order 41 Rule 28 CPC. The Appellate Court shall give an opportunity to the parties to adduce evidence only in respect of the additional documents allowed by the Appellate Court and shall also give an opportunity to the revision petitioner to cross-examine the witness in respect of the additional



C.R.P.No.1849 of 2025

documents, and thereafter, dispose of the appeal as expeditiously as possible, but not later than three months from the date of receipt of a copy of this order.

6.With these directions, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

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

2.The Section Officer,
VR Section,
High Court, Madras.

N. SATHISH KUMAR, J.



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C.R.P.No.1849 of 2025

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C.R.P.No.1849 of 2025

18.06.2025