IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP Nos. 2190, 2191, 2282, 2285, 2345 and 2346 of 2025
AND
CMP Nos. 12770, 13221, 13223, 13558 and 13557 of 2025

1. P.S. Shanmugam
S/o.Solairaj, D.No. 156/2,
Nagaramalai Main Road,
Alagapuram, Salem Dist.

Petitioner in CRP.Nos.2190, 2191 of 2025 and
Respondent in CRP.Nos.2282, 2285, 2345 and 2346 of 2025

1. S.Paneerselvam,
S/o.Shanmugam,
D.No.382-Q, Kumarasamypettai Kovil Street,
Dharmapuri Town and Taluk,
Dharmapuri District.

Petitioner in CRP.Nos.2282 and 2285 of 2025

Vs.

1. K. Govindarajan
S/o.D.N.Kolandaivel,

Respondent in CRP.Nos.2190 and 2191 of 2025
and Petitioner in CRP.Nos.2345 and 2346 of 2025

PRAYER in CRP.Nos.2190 & 2191 of 2025: These Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 20.1.2025 made in IA.Nos.15 & 16 of 2024 in OS.No. 31/2018 on the file of the Additional District Judge, Dharmapuri and consequently allow the said IA.Nos.15 & 16 of 2024 in OS.No. 31/2018.

PRAYER in CRP.Nos.2282 & 2285 of 2025: These Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed by the Additional District Judge, Dharmapuri dated 20.01.2025 made in I.A.Nos.05 & 06 of 2024 in O.S.No.32 of 2018 and thus render justice.

PRAYER in CRP.Nos.2345 & 2346 of 2025: These Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the Additional District Judge, Dharmapuri dated 20.01.2025 made in IA Nos.13 & 14 of 2024 in OS No.31 of 2018 and thus render justice.

For Petitioner(s): in CRP.Nos.2190 & 2191 of 2025 — Mr.J.Ramakrishnan

For Respondent(s): in CRP.Nos.2190 & 2191 of 2025 — Mr.P.M.Jayachandran

For Petitioner : in CRP.Nos.2282, 2285, 2345 and 2346 of 2025 — Mr.P.M.Jayachandran

For Respondent: in CRP.Nos.2282, 2285, 2345 and 2346 of 2025 — Mr.J.Ramakrishnan

ORDER

These Civil Revision Petitions have been filed to set aside the fair and decreetal order dated 20.01.2025 made in I.A.Nos.13,14,15 and 16 of 2024 in O.S.No.31 of 2018 and I.A.Nos. 05 & 06 of 2024 in O.S.No.32 of 2018.

2. Heard Mr.P.Sivakumar, learned counsel appearing for the revision petitioners in CRP.Nos.2190 and 2191 of 2025, Mr.P.M.Jayachandran, learned counsel for the revision petitioners in CRP.Nos.2282, 2285, 2345 and 2346 of 2025 and for the respondent in CRP.Nos.2190 and 2191 of 2025 and Mr.J.Ramakrishnan, learned counsel for respondent in CRP.Nos.2282, 2285, 2345 and 2346 of 2025.

3. The revisions insofar as CRP.Nos.2282 & 2285 of 2025 arise out of Civil Suit in O.S.No.32 of 2018. The petitioner as plaintiff has took out an application for sending the disputed promissory note in Ex.A1 for comparison to the Forensic Expert and for such purpose, reopen the evidence of the plaintiff. Similarly, in a connected suit as against the same defendant, but however different plaintiff in O.S.No.31 of 2018, similar applications were taken out by the said plaintiff, where also the disputed pronote has been marked as Ex.A1. Arising out of these

proceedings, CRP.Nos.2190, 2191, 2345 & 2346 of 2025 have been filed on the side of the plaintiff. They had taken out an application to issue subpoena to the Income Tax Department in O.S.No.31 of 2018 for the purpose of producing and clarifying the Exhibits A2 to A5 that have been marked on the side of the plaintiff in the said suit.

4. All these applications were dismissed by the trial Court, as against which, these six Civil Revision Petitions have been filed, four by the plaintiff and two by the defendants.

5. Subsequent to hearing the matter on the last hearing on 29.07.2025, I directed the learned counsel for defendants to verify if any contemporaneous signatures relating to Ex.A1 promissory note can be procured from the Auditor, who has been examined as D.W.2 in the trial.

6. Mr.J.Ramakrishnan, learned counsel for defendants has come back and stated that the income returns of the defendant for the Assessment Year 2017-2018, which has been duly signed by the defendant is available and the original of the same can be produced before the trial Court in both the suits. Since the two suits O.S.Nos.31

and 32 of 2018 are being tried simultaneous Trial, the trial Court shall take cognizance of the said document.

7. Insofar as the other suit in O.S.No.32 of 2018 is concerned, on production of original of the income tax returns on the side of the defendant, the trial Court shall send the said document along with Ex.A1 in both the suits for the opinion of the experts, by appointing an Advocate Commissioner to handover to the Forensic Department, Chennai. The remuneration of the Advocate Commissioner shall be met by the plaintiff in the respective suits. In view of the above, revisions in CRP.Nos.2282, 2285, 2345 and 2346 of 2025 are disposed of with the above observations and discussions.

8. Coming to Civil Revision Petition Nos.2190 and 2191 of 2025, Mr.J.Ramakrishnan, learned counsel for the revision petitioners would contend that in these two revisions, the income tax return acknowledgement alone has been filed before the Income Tax Department and the annexure, which is now enclosed along with the acknowledgement is seriously doubted by the defendants and for that purpose, the subpoena application has been filed to send the documents

from the Income Tax department and also for the official to speak about the same.

9. I find that the plaintiff has relied upon the said acknowledgement, which contains an annexure, wherein Exs.A2 to A5 contains the statement of affairs, which has not been validated even by the Auditor of the plaintiff. Only in order to verify the genuineness of the statement of affairs, which is annexed to the said written acknowledgment, the application has been taken out.

10. I find force in the submission made by the learned counsel for revision petitioner. Since the income tax website permits uploading of only verification form/written acknowledgement and not any other additional documents in respect of non audit case and only in order to establish that the statement of affairs projected by the plaintiff is not a true document or true annexure, which was annexed along with the written acknowledgement, the applications were taken out for reopening of evidence of D.W.1 and for issuing subpoena.

11. In the light of the fact that there is specific reference to the

claim made by the defendant in the statement of affairs that has been relied on in Exs.A2 to A5, the defendant should be given a fair and reasonable opportunity to establish his contentions that the said annexure to the statement in the written verification form/written acknowledgement is not true and genuine document, the applications ought to have been entertained by the trial Court.

12. In the light of the above, I am inclined to set aside the order in these interlocutory applications. However, it would suffice that the subpoena is issued to the Income Tax Department to produce Income tax returns of the respective plaintiffs' in O.S.No.31 of 2018 and to produce the Income tax returns relating to the plaintiff viz., Kolangounder Govindaraja with PAN No.AEHPG4707R for the Assessment Years 2018-2019, 2019-2020, 2020-2021 and 2021-2022. I do not see any necessity for the income tax officials to give any evidence regarding the said documents that are directed to be produced, since the documents would speak for themselves and the trial Court shall be in a position to gather relevant particulars of the said document, on the same being

produced. It is also made clear that the Income Tax Department shall produce the said income tax returns, including all annexures, if available.

P.B.BALAJI., J.

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13. With the above directions, CRP.Nos.2190 & 2191 of 2025 are allowed and CRP.Nos.2282, 2285, 2345 and 2346 of 2025 are disposed of. No costs. Connected miscellaneous petitions are closed.

06-08-2025

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

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CRP Nos. 2190, 2191, 2282, 2285, 2345 and 2346 of 2025