



CRP NPD.No.2293 of 2025

**THE HIGH COURT OF JUDICATURE AT MADRAS**

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**Date : 18.06.2025**

CORAM:

**THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR**

**CRP [NPD] No.2293 of 2025 & CMP.No.13293 of 2025**

Veerakumar

. . . Petitioner

Versus

1. C.Narayanasamy  
2. R.Jothimani  
3. R.Prasanth  
4. R.Soumiya  
5. Saraswathi  
6. S.Vasanthamani  
7. S.Janani  
8. S.Mahendiran  
C.Samiyappan [died]  
C.Rathinasamy [died]

. . . Respondents

**PRAYER :** Petition filed under Article 227 of Constitution of India to set aside the fair and final Order dated 05.04.2024 made in IANo.3 of 2022 in A.S.No.27 of 2022 on the file of the learned Additional Subordinate Judge, Tiruppur by allowing this Civil Revision Petition.



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For petitioner : Mr.N.S.Suganthan

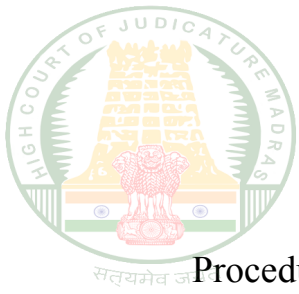
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## **ORDER**

Challenge has been made to the Order passed by the appellate Court allowing the application filed by the respondents for receiving additional documents.

2. The suit in O.S.No.57 of 2007 has been filed by the revision petitioner for declaration and permanent injunction in respect of the pathway. The suit has been dismissed. However, during the appeal, the respondents took out an application to receive additional documents namely preliminary decree passed in O.S.No.120 of 2007 and the final decree passed thereon and that apart, three settlement deeds. The appellate Court has in fact allowed the application. Challenging the same the present revision has been filed.

3. The main contention of the learned counsel appearing for the petitioner is that the application filed under Order 41 Rule 27 Code of Civil



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Procedure ought to have been heard along with the appeal. Therefore, without hearing the appeal on merits, the appellate Court ought not have allowed the application.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. Though normally the application filed under Order 41 Rule 27 of Code of Civil Procedure will be heard along with the appeal and if the Court is of the view that additional evidence is required, then the procedure contemplated under Order 41 Rule 28 of Code of Civil Procedure has to be followed by the appellate Court. However, the appellate Court instead of hearing the appeal, has heard the application filed under Order 41 Rule 27 and allowed the application. Though proper procedure has not been followed, the appellate Court has held that the additional documents sought to be filed are necessary to enable the Court to render justice. In such view of the matter mere failure to follow the procedure, this Court is of the view that, will not



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cause any prejudice to the revision petitioner, if proper opportunity is given to the him by the appellate Court. Having allowed the application to receive additional evidence, the appellate Court shall now follow the procedure contemplated under Order 41 Rule 28 of Code of Civil Procedure. The appellate Court may take evidence, since it has allowed the application filed to receive additional evidence and give opportunity to the revision petitioner to cross examine the witness and thereafter, proceed further and dispose the appeal on merits.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**18.06.2025**

Index : Yes / No  
Internet: Yes  
Speaking/non speaking order  
vrc

To,

The Additional Subordinate Judge,  
Tiruppur.

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**N. SATHISH KUMAR, J.**

vrc

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