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CRP.No.4773 & 4774 of 2025 and CMP.Nos.24139 & 24145 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.Nos.4773 & 4774 of 2025

and

CMP.Nos.24139 & 24145 of 2025

S.Kalidas

... Petitioner / Petitioner /
3rd Defendant in both CRPs

Versus

1. Aruna alias Arunadevi

... 1st Respondent /1st respondent /
Plaintiff in both CRPs

Ganapathisamy

2. Sakthivel

3. S.Vasudevan

4. Sethuraman

5. Karuppushamy

6. Harini

... Respondents 2 to 6 /Respondents 1 to 7 /
Defendants 1,2,4 to 7 in both CRPs

Common Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and final order passed in I.A.Nos.10 & 9 of 2025 in O.S.No.118 of 2013 dated 24.03.2025 on the file of the Subordinate Court, Pollachi by allowing the Civil Revision Petition.



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For Petitioner

: Mr.N.Umapathi in both CRPs

COMMON ORDER

Unsuccessful third defendant has preferred the present Civil Revision Petitions.

2. One Aruna alias Arunadevi filed a suit in O.S.No.118 of 2013 on the file of the Sub Court, Pollachi, seeking partition and separate possession against defendants 1 to 7. The defendants filed their written statements, and necessary issues were framed. The plaintiff / Aruna alias Arunadevi, examined herself as P.W.1, and certain documents were marked on her side. Thereafter, PW2 was examined in chief on behalf of the plaintiff, and the case was posted for cross-examination of P.W.2 on 19.08.2024, 27.08.2024, 05.09.2024 and 25.09.2024. However, the revision petitioner / third defendant did not cross - examine P.W.2 on any of those dates. Since, the Revision petitioner / third defendant has not chosen to cross examination of P.W.2 , the Court below closed the cross examination of P.W.2. Subsequently, the revision petitioner / third respondent filed an application



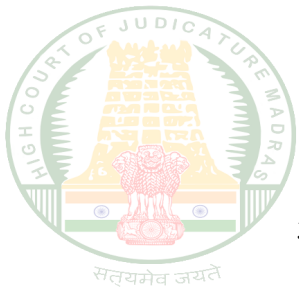
for reopen and recall P.W.2, and the same was allowed by the Court below on 21.10.2024. Even thereafter, the revision petitioner / third defendant did not chosen to cross examine P.W.2 on 27.11.2024 and 17.12.2024. Hence, the Court below again closed the cross - examination of P.W.2 by the third defendant on 17.12.2024. Aggrieved over the same, the revision petitioner / third defendant filed an application in I.A.Nos.9 and 10 of 2024 seeking to reopen and recall P.W.2 for cross examination. Upon hearing either side, the Court below, vide order dated 24.03.2025, dismissed the applications. Challenging the said order, the third defendant has preferred the present Civil Revision Petitions.

3. The learned counsel appearing for the revision petitioner would submit that the suit is one for partition, and in order to decide the real controversy between the parties, one more opportunity may be granted to the revision petitioner / third defendant to cross-examine P.W.2. The learned counsel further submitted that due to ill health, the third defendant was unable to give proper instructions to the counsel to cross examine P.W.2, and the lapse was neither willful nor wanton. The learned counsel for the



revision petitioner also submitted that the revision petitioner is ready and willing to pay costs for recalling P.W2. The learned counsel undertakes that the revision petitioner will be ready to cross-examine P.W.2 on 13.10.2025 itself and will not seek any further adjournment. The learned counsel further pointed out that the case has been posted for the cross-examination of PW2 by defendants 5 and 6 on 13.10.2025.

4. It is seen from the records that the suit is of the year 2013 and the same is filed seeking partition. The plaintiff / Aruna alias Arunadevi, is the daughter of Ganapathisamy (First defendant). The said Ganapathissamy, after the death of his first wife, Saraswathi, in 1989, married the plaintiff's mother, Sellathal, on 22.08.1993. According to the revision petitioner, the suit properties were owned by Ganapathisamy by virtue of a partition deed registered as document No.312 of 1992, dated 06.02.1992. Subsequently, the second respondent / Sakthivel, who is the son of first wife, along with his father, sold the suit properties to the revision petitioner / third defendant and one Vasudevan / fourth defendant on 01.12.2006.



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5. In order to decide the real controversy between parties and to afford an opportunity to revision petitioner / third defendant, this Court is inclined to set aside the order dated 24.03.2025 and permit the petitioner to cross examine P.W.2 subject to payment of a sum of Rs.2,000/- to the plaintiff.

6. Accordingly, the order dated 24.03.2025 passed in I.A.Nos.9 and 10 of 2025 in O.S.No.118 of 2013, is hereby set aside, the revision petitioner shall pay a sum of Rs.2,000/- to the plaintiff, on or before 13.10.2025. Upon such payment, the Court below shall permit the revision petitioner / third defendant to cross examine P.W.2 on 13.10.2025 itself.

7. Accordingly, these Civil Revision Petition are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

08.10.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No



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M. JOTHIRAMAN, J.

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To

The Subordinate Court, Pollachi.

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