



CRP.Nos.2310 & 2313 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

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THE HONOURABLE MR. JUSTICE P.B.BALAJI

CRP.Nos.2310 & 2313 of 2025

and

CMP.Nos.13378 of 2025

1.Indirani
2.Gunasekaran
3.G.Kumar

... Petitioners in both CRP

Vs.

R.Duraisamy

... Respondent in both CRP

Prayer in CRP.No.2310 of 2025: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.03.2025 made in I.A.No.07 of 2024 in O.S.No.31 of 2019 on the file of Sub Ordinate Judge, Perundurai.

Prayer in CRP.No.2313 of 2025: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.03.2025 made in I.A.No.08 of 2024 in O.S.No.31 of 2019 on the file of Sub Ordinate Judge, Perundurai.



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CRP.Nos.2310 & 2313 of 2



(in both CRP's)

For Petitioners : Mr.C.Guruprasad

For Respondent : Mrs.L.Meenakshi
for Mr.M.Dinesh

COMMON ORDER

The Civil Revision Petitions are filed to set aside the order dated 13.03.2025 made in I.A.No.07 & 08 of 2024 in O.S.No.31 of 2019 on the file of Sub Ordinate Judge, Perundurai.

2. Heard the learned Counsel on either side and perused the materials available on record.

3. The revision petitions are filed at the instance of the defendants who have sought to recall / reopen the evidence of P.W.1, for the purposes of cross examination. The reason that has been stated by the revision petitioners is that there is contradictory evidence deposed by P.W.1 in an earlier suit in O.S.No.197 of 2010 and in order to highlight the contradiction, the recall / reopen petitions are filed. The said application was resisted by the respondent / plaintiff and the trial Court has proceeded to dismiss the application. The



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trial Court has also found that the petitioners had sufficient liberty to cross examine P.W.1 and after examining two witnesses on the side of the defendant and without any explanation or sufficient cause, the applications have been filed.

4. Therefore, I do not find any infirmity or perversity in the finding of the trial Court. Further, there is also a bar under Section 33 of the Evidence Act, to rely on deposition of witness, who have deposed in earlier proceedings. In the present case in O.S.No.197 of 2010. Marking of such evidence in previous proceedings is available only when the witness is no more or incapable of evidence. It is not the case of the revision petitioners that they come within the exceptions of Section 33. Therefore, even from this angle, the applications for recall & reopen are not necessary as the evidence adduced in the earlier suit cannot be permitted to be marked in the present suit.

5. In view of the above reasons, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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6. Considering the fact that the suit is of the year 2019 and the defendants have also adduced evidence of D.W.1 and 2, the Sub-Court Perundurai, is directed to dispose of the same on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

23.07.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-Speaking Order
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To
The Sub-ordinate Judge, Perundurai.



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P.B.BALAJI, J.

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