

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 14.08.2025

Order pronounced on : 12.09.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.3015, 3016, 3017 & 3018 of 2025
& CMP.Nos.16911 & 16913 of 2025

CRP.Nos.3015 & 3016 of 2025:

S.Nanda Kishore

..Petitioner
in CRP.Nos.3015 & 3016 of 2025

Vs.

1.Dilip Kumar Jain @ Dilip Jain

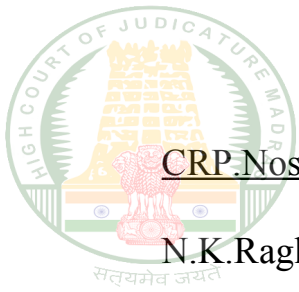
2.Jagadeesh Prasad Porewal sued as

Power Agent of Dilipkumar Jain @ Dilip Jain

..Respondents in
in CRP.Nos.3015 & 3016 of 2025

Prayer in CRP.No.3015 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 26.06.2025 made in I.A.No.3 of 2025 in O.S.No.40 of 2011 on the file of the Subordinate Judge, Maduranthakam.

Prayer in CRP.No.3016 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the docket order dated 12.06.2025 made in O.S.No.40 of 2011 on the file of the Subordinate Judge, Maduranthakam.



CRP.Nos.3017 & 3018 of 2025:

N.K.Raghunathan

..Petitioner

in CRP.Nos.3017 & 3018 of 2025

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Vs.

1.Dilip Kumar Jain @ Dilip Jain

2.Jagadeesh Prasad Porewal sued as

Power Agent of Dilipkumar Jain @ Dilip Jain

..Respondents in

in CRP.Nos.3017 & 3018 of 2025

Prayer in CRP.No.3017 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 26.06.2025 made in I.A.No.3 of 2025 in O.S.No.41 of 2011 on the file of the Subordinate Judge, Maduranthakam.

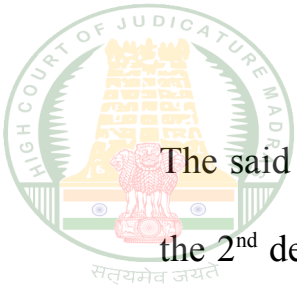
Prayer in CRP.No.3018 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the docket order dated 12.06.2025 made in O.S.No.41 of 2011 on the file of the Subordinate Judge, Maduranthakam.

For Petitioner : Mr.M.S.Subramanian in all CRPs

For Respondents : Mr.K.Govi Ganesan in all CRPs

COMMON ORDER

These revisions arise out of two suits in O.S.No.40 2011 and O.S.No.41 of 2011. The 2nd defendant filed an application in I.A.No.3 of 2025 in both the suits, permitting reception of additional documents, after trial had concluded.



The said orders in I.A.No.3 of 2025 in O.S.Nos.40 and 41 and 2011, allowing the 2nd defendant to file additional documents on payment of cost of Rs.1000/-

is under challenge in two revisions. In the other two revisions, the Trial Court recasting the issues on its own and without hearing the revision petitioner is under challenge in the other two revisions.

2.I have heard Mr.M.S.Subramanian, learned counsel for the petitioner in all the revisions and Mr.K.Govi Ganesan, learned counsel for the respondents in all the revisions.

3.Mr.M.S.Subramanian, learned counsel for the revision petitioner in all the revision petitions would first and foremost contend that the learned trial Judge has committed an error in reopening the case, after having reserved the judgment and has recast issues, without jurisdiction and also without power to do so, once the evidence has been let in on specific issues framed already. The learned counsel would further state that the suit was filed in the year 2011 and after prolonged trial, the evidence was closed on 15.04.2025 and both the plaintiff and the defendants have argued the matter and judgment was reserved as well. However, the Trial Court has *suo motu* reopened the case and recast the issues and thereby, permitted the defendants to let in further evidence, which

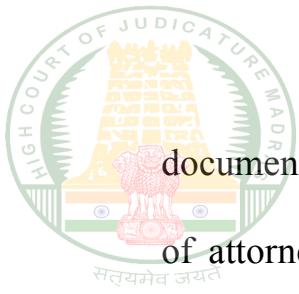


according to the learned counsel for the petitioner, is contrary to the provisions of CPC.

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4.The learned counsel for the petitioner would further state that the Trial Court also erred in allowing I.A.No.3 of 2025 and after reopening the matter, has admitted additional documents to be marked as exhibits. He would contend that the case of the 2nd defendant in the suit is that the power of attorney has been cancelled and the sale agreement executed by the power agent was not valid, whereas the fact remains that the cancellation of power of attorney dated 30.03.2011, was after execution of the sale agreement on 25.02.2011 and therefore, there was no necessity to even receive the additional documents on the side of the 2nd defendant. He would also state that under the guise of recasting issues, the learned Trial Judge only changed the words and eventually has not altered any of the issues that were already framed. He would therefore pray for the revisions being allowed.

5.Per contra, Mr.Govi Ganesan, learned counsel for the respondents in all the revision petitions would state that pursuant to reopening of the case, D.W.1 has already been recalled and he has marked the documents as well. He would further state that no prejudice has been caused to the revision petitioner and the



documents that have been marked are only registered sale deeds and the power of attorney executed by the 2nd defendant in favour of the 1st defendant and cancellation of the power of attorney deed in original dated 30.03.2011. The application to file these documents, though was objected to, the trial Court rightly allowed the same and therefore, the learned counsel would state that the orders of the trial Court in I.A.No.3 of 2025 do not deserve any interference. He would also place reliance on the decision of the Hon'ble Division Bench of this Court in *J.K.Abdul Jabbar Rowther Vs. VJ.Mani Raj and others*, reported in 1993 2 L.W 198 and *K.N.Palaniswamy Gounder Vs. P.Subramanian*, reported in 2005 1 L.W 622. Relying on the said decisions, it is contended by Mr.Govi Ganesan that the Trial Court has not committed any error in recasting the issues and there is no violation of provisions of CPC in this regard.

6.I have carefully considered the submissions advanced by the learned counsel on either side.

7.The issues originally framed in the O.S.No.40 of 2011 are as follows:

- 1.Whether the plaintiff and 1st defendant has colluded among them and fabricates a Sale agreement dated 25.02.2011?*
- 2.Whether the 1st defendant has entered a sale agreement in accordance with General Power of Attorney document No.223/2006 and will bind upon the 2nd defendant?*



3. Whether the plaintiff is willing and to ready to perform his part of the contract?

4. Whether the plaintiff is entitled for the relief of specific performance as claimed in the plaint?

5. To what other reliefs, the plaintiff is entitled?

8. The issues originally framed in the O.S.No.41 of 2021 are as follows:

“1. Whether the plaintiff and 1st defendant has colluded among them and fabricates a Sale agreement dated 25.02.2011?

2. Whether the 1st defendant has entered a sale agreement in accordance with General Power of Attorney document No.223/2006 and will bind upon the 2nd defendant?

3. Whether the plaintiff is willing and to ready to perform his part of the contract?

4. Whether the plaintiff is entitled for the relief of specific performance as claimed in the plaint?

5. To what other reliefs, the plaintiff is entitled?”

9. On 12.06.2025, after reserving judgment, the Trial Court has recast the issues in both the suits as hereunder:

“1. Whether the 1st defendant was knowledge of cancellation of power of attorney dated 30.03.2011 soon after cancellation?

2. Is it true that the sale agreement dated 25.02.2011 was created and fabricated by plaintiff and 1st defendant after cancellation of power of attorney?

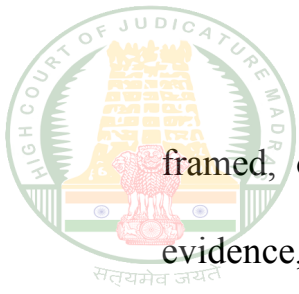
3. Whether the plaintiff is ready and willing to perform the contract?

4. Whether the plaintiff has properly valued the suit property and paid correct court fees?

5. Whether the plaintiff is entitled to the relief of specific performance?

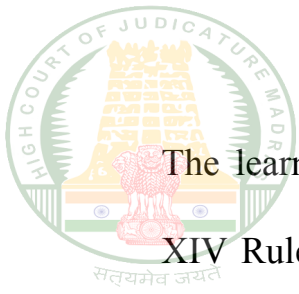
6. To what other relief the plaintiff is entitled for?”

10. Testing the said recast issues in the backdrop of the issues originally



framed, on which the parties were required to lead oral and documentary evidence, I find that substantially the first issue originally framed in both the suits is reiterated in the second issue, after the issues being recast. The issue Nos.3, 4 and 5 originally framed are retained and reproduced in issue Nos.3, 5 and 6, by recasting the issues. The new issue that 'whether the plaintiff has properly valued the suit property and paid Court fees' has been framed for the first time and by recasting the issues and the first issue that is recast in both the suits is 'whether the 1st defendant had knowledge of cancellation of power of attorney dated 30.03.2011 soon after cancellation'.

11. Before going to the merits and demerits of whether the recast issues are proper or necessary, I will have to first examine the permissibility of recasting the issues. The learned counsel for the petitioner referring to Order XIV Rule 1, which deals with framing of issues, would contend that in terms of Rule 5(1) of Order XIV of CPC, the Court has a power at any time before passing a decree to amend the issues framed or frame additional issues, on such terms, as it thinks fit and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed. In terms of Rule 5(2) of CPC, the Court also has the power to strike out any issues that appear to be wrongly framed or introduced.



The learned counsel for the petitioner would contend that in terms of Order XIV Rule 1 of CPC as amended, with Rule 1(5) of Order XIV of CPC being substituted by Act 104 of 1976, it is incumbent for the Court to hear the parties or their pleaders before proceeding to frame and record the issues. It is therefore the contention of the learned counsel for the petitioner that even while amending the issues in terms of Rule 5, the counsel would have to be heard as is mandated under amended Rule 1(5) of Order XIV of CPC.

12. The very same issue has come up for consideration before this Court in the two decisions on which reliance is heavily placed on by Mr. Govi Ganesan, learned counsel for the respondent. The Division Bench of this Court in *J.K. Abdul Jabbar Rowther's case* has held that the Court is entitled to recast issues before judgment and that it is not necessary for the Court to issue notice to the parties, when it finds that proper issues have not been framed. Reliance was placed on Order XIV Rule 5 of CPC in this regard. The said ratio laid down in *J.K. Abdul Jabbar Rowther's case* was followed later by another Division Bench in *K.N. Palaniswamy Gounder's case*, where also the Hon'ble Division Bench held that at any point of time, before passing judgment, the Court has the powers to frame additional issues. Therefore, in the light of the settled position of law, I am unable to accept the submissions of the learned



counsel for the petitioner that without hearing the counsel, the Court ought not to have recast the issues.

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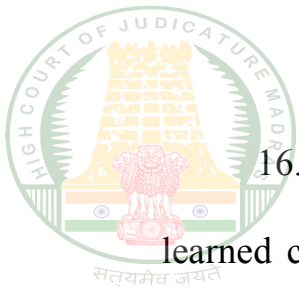
13. Act 104 of 1976, the Code of Civil Procedure was amended and one of such amendments was to Order XIV Rule 1(5), by insertion of the following words “after examination under Rule 2 of Order X and after hearing the parties or their pleaders”. However, the legislature has not thought it fit to amend Rule 5 of Order XIV similarly, providing for hearing the parties or their counsel. Therefore, I am unable to countenance the said submission of the learned counsel for the petitioner that even while recasting the issues, by exercising the power under Order XIV Rule 5 of CPC, the Court has to hear the parties or their counsel. The said contention is therefore rejected.

14. Coming to the recasting of the issues by the Trial Court, as I have already found, one new issue has been introduced, after recasting the issue which is pertaining to valuation of suit property and payment of Court fees. I find from the written statement filed by the 2nd defendant that the valuation and payment of Court fee has been challenged in the written statement and the Trial Court having had the benefit of evidence adduced by the parties, has thought it fit to frame this new issue in its discretion, for determining the matters in



controversy between the parties. Therefore, I do not find that the Trial Court has committed any error insofar as the introduction of this new issue is concerned, as there is a plea in defence, in this regard.

15. Coming to other issue, which has led to reception of additional documents and evidence, the first issue, after issues have been recast, is as to whether the 1st defendant had knowledge of cancellation of power of attorney dated 30.03.2011, soon after cancellation. The original issue framed at issue No.2 is whether the 1st defendant entered into the sale agreement in accordance with the general power of attorney in Doc.No.223 of 2006 and whether it would bind the 2nd defendant. It is only this issue that has been recast as the first issue by the Trial Court and the first issue originally framed with regard to collusion and fabrication of sale agreement, has found its way in recasting the second issue. Therefore, I do not find any infirmity or perversity in the Trial Court having recast the issues and also there being no necessity to hear the counsel and the Court being empowered under Order XIV Rule 5 of CPC to recast issues anytime before pronouncing judgment, when the Trial Court has exercised the power available to it, the same does not call for any interference under Article 227 of Constitution of India.



16. With regard to the permission to file additional documents, the learned counsel for the respondent has relied on my order in *CRP.Nos.1127, 1320 & 1364 of 2025* dated 16.06.2025. In the said case, where I had held that there is no embargo for producing additional documents before the Trial Court and the Trial Court should, as far as possible, give the parties an opportunity to put forth all evidence, before the suit is finally decided. The Trial Court, has also, in the present case thought it necessary to permit the additional documents to be received on the side of the defendants.

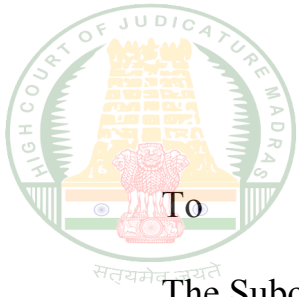
17. In fact, it is also admitted that D.W.1 has also been examined and the additional documents have been marked as well. Therefore, I do not find any compelling reason or necessity to interfere with the order of the Trial Court, that too, after imposing costs on the respondents, for the belated request for producing additional documents and especially since now the documents have also been exhibited before the Court. The revision petitioners can always exercise their right to cross examine D.W.1 with regard to the additional evidence and the documents that has now been permitted. I do not find any grounds warranting interference with the order passed in I.A.No.3 of 2025 in O.S.No.40 of 2011 as well as O.S.No.41 of 2011.



18. In the light of the above, all the Civil Revision Petitions are dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

12.09.2025

Speaking/Non-speaking order
Index : Yes/No
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The Subordinate Judge, Maduranthakam.

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P.B.BALAJI.J,

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Pre-delivery order made in
CRP.Nos.3015, 3016, 3017 & 3018 of 2025
& CMP.Nos.16911 & 16913 of 2025

12.09.2025