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CRP. No.3282 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:12.08.2025

Pronounced on:04.09.2025

CORAM

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**CRP. No.3282 of 2025  
and CMP. No.18171 of 2025**

- 1.Srinivasan
- 2.S.Meenakshi
- 3.K.Kavitha Kannan
- 4.K.Ishwarya Kannan
- 5.K.Sowndarya Kannan
- 6.Minor K.Parameshwar Kannan

Petitioners

Vs

- 1.Bharath Petroleum Corporation Limited  
Having office at 1, Ranganathan Garder,  
1/2, 11<sup>th</sup> Main Raod, Anna Nagar,  
Chennai – 600 040

A.R.Damodara Mudaliar (Died)

2.Urmila Sathiyarayanan

3.Narayani Samyuktha

Respondents

**PRAYER:** This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.06.2025 in I.A. No.104 of 2024 in O.S. No.119 of 2003 on the file of I Additional Sub Judge, Cuddalore.



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For Petitioners : Mr.T.R.Rajagopalan for  
Mrs.D.Chitra Maragatham  
For Respondents : Mr.O.S.Karthikeyan for R1  
Mr.K.Harishankar for R2 and R3

**ORDER**

The plaintiffs are the revision petitioners, aggrieved by the order in I.A. No.104 of 2024 in O.S. No.119 of 2003 on file of the first Additional Sub Judge, Cuddalore.

2. I have heard Mr.T.R.Rajagopalan, learned Senior Counsel for Mrs.D.Chitra Maragatham, learned counsel for the petitioners and Mr.O.S.Karthikeyan, learned counsel for the first respondent and Mr.K.Harishankar, learned counsel for the respondents 2 and 3.

3. The plaintiffs, pending the suit in O.S. No.119 of 2003 took out an Application in I.A. No.104 of 2024 seeking to eschew the issue framed on the question of title and to consequently recast the issues. The said Application was resisted by the defendants and the Trial Court, on enquiry, found that there was no necessity to eschew the issue that has been framed with regard to the title of the plaintiffs and recast the issues. The Application was therefore dismissed.



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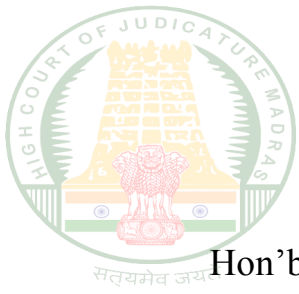
4. Mr.T.R.Rajagopalan, learned Senior Counsel for the revision petitioners would invite my attention to the judgment of this Court in S.A. No.680 of 2011 dated 06.11.2017 and contend that this Court has in no uncertain terms, stated that the issue of title was not necessary and the matter was remitted to the Trial Court to be decided afresh. The learned Senior Counsel would also invite my attention to the order of this Court in CRP. No.777 of 2020 dated 26.09.2023, where another Judge of this Court referring to the judgment in S.A. No.680 of 2011, reiterated that the issue of validity of title being an admitted fact between the parties, cannot be gone into in the suit. The learned Senior Counsel would therefore state that different meaning or interpretation cannot be given to the judgment of this Court in Second Appeal in S.A.No.680 of 2011 when one another learned Judge has rightly interpreted the judgment in the Second Appeal, holding that the title was a non-issue in the suit, in view of the admitted fact between the parties. The learned Senior Counsel would therefore pray for the revision being allowed and despite the judgment in the Second Appeal as well as the order in Civil Revision Petition, the Trial Court has erroneously proceeded to frame an issue regarding title.



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5. Per contra, Mr.K.Harishankar, learned counsel for the respondents 2 and 3 would take me through entire judgment in Second Appeal in S.A. No.680 of 2011 and would contend that it was the argument of the learned Senior Counsel for the revision petitioners himself that the Trial Court without framing an issue regarding title had proceeded to decide the issue of title and it was only under such circumstances, the Second Appeal was disposed of as can be seen from the said judgment. He would also refer to the plaint and state that insofar as one of the 2 items of properties set out in the schedule, the plaintiffs themselves were doubtful about their right with regard to item 2.

6. Mr.K.Harishankar, learned counsel would further state that subsequently much water has flown and there has been a lease executed by the successor of the second defendant, who have also filed their written statement questioning the title of the plaintiffs. He would therefore contend that there is no error or infirmity in the Trial Court framing an issue with regard to title of the plaintiff.



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7. The learned counsel would also rely on the decision of the Hon'ble Supreme Court in *Jai Prakash Gupta (Dead) through Legal Heirs Vs. Riyaz Ahamad and Another*, reported in (2009) 10 SCC 197 and *Biswanath Agarwalla Vs. Sabitri Bera and others*, reported in (2009) 15 SCC 693 and contend that when subsequent events have been brought to the notice of this Court, by way of pleadings, then issues will have to be necessarily recast and issues will have to be framed only on basis of the pleadings made available to the Court. He would therefore state that there is no merit in the Civil Revision Petition and the same deserves to be dismissed. The learned counsel for the first respondent would also state that the Trial Court has rightly found that the issue regarding title would have to be necessarily adjudicated upon and the order of the Trial Court does not require interference.

8. I have carefully considered the submissions advanced by the learned counsel for the parties.

9. The interpretation of the decision of this Court in S.A. No.680 of 2011 dated 06.11.2017 falls for consideration. The plaintiffs in the



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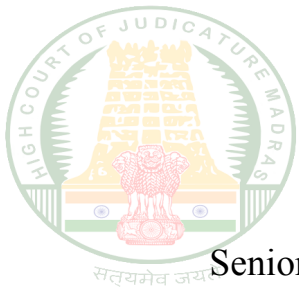
present suit came before this Court on Second Appeal in respect of the present suit in O.S. No.119 of 2003. The suit had been dismissed as against which First Appeal in A.S.No.2 of 2007 was also dismissed and seeking to set aside the concurrent findings, the plaintiffs filed the said Second Appeal. The suit has been filed for recovery of possession, arrears of rent and damages and mesne profits. The Second appeal was admitted on the following substantial questions of law.

*“(a) When the appellant/plaintiff has purchased the suit property under Exs.A10 and All, dated 10.08.1999, pursuant to the order passed under Section 9 of the Tamil Nadu City Tenants Protection Act, without there being any challenge to the validity of the sale deed dated 10.08.1999 executed under the order of the Court, whether it is open to the Trial Court to invalidate the sale deeds marked as Exs.A10 and All?*

*(b) When there is no dispute whatsoever to the title of the plaintiff/appellant in respect of the suit property, moreover no plea whatsoever has been raised in the written statement, whether the learned District Judge is right in dismissing the suit holding that Exs.A10 & All are not valid?*

*(c) Whether the learned District Judge is right in holding that the plaintiff will not get title to the suit property without obtaining permission of the District Court under the Public Trust Act, 1920, ignoring the right of the Tenant acquiring the title by invoking his right under Section 9 of the Tamil Nadu City Tenants Protection Act?*

*(d) When the defendant had accepted the title of the plaintiff and thereupon agreed to attorn the tenancy, whether it is open to the learned District Judge to refuse the relief of delivery of possession of the suit property?”*



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10. In order to appreciate the contentions advanced by the learned Senior Counsel Mr.T.R.Rajagopalan, as well as Mr.K.Harishankar, learned counsel for the second respondent, the relevant paragraphs in the Second Appeal judgement assume significance and relevance, hence they are extracted for ready and easy reference hereunder:

*“ 8. When the matter is taken up for final hearing today, the learned Senior Counsel Mr.T.R.Rajagopalan, appearing for the appellants would submit that no issues were framed on the aspect of title. The Trial Court and the Lower Appellate Court should have confined themselves in respect of the suit alone. On the other hand, they have exceeded the jurisdiction and decided irrelevant issues.*

*9. The learned counsel for the respondents would submit that the suit has been rightly dismissed.*

*10. On a perusal of the judgment of the Courts below, it is very clear that the issue framed was in respect of the plaintiffs' entitlement to get delivery of possession. When the defendants have categorically admitted the jural relationship as landlord and tenant, the Trial Court ought not to have ventured into the issue of title, but should have restrained itself only in respect of the relevant issue, i.e., delivery of possession. But while discussing the particular issue, the Trial Court has deviated into the issue title and enlarged the scope of the suit. In that process, the relevant issue was not properly considered. Even assuming that the title of the plaintiffs to the property is in dispute, a specific issue should have been raised and the parties should have been allowed to let in evidence on that aspect. Without framing an issue and without giving an opportunity to adduce evidence on the particular issue, the decision taken by the Trial Court is materially irregular and the judgment passed on the non-issue is patently illegal. The Lower Appellate Court also without considering the issue in proper perspective, had confirmed the judgment erroneously.*

*11. Since there is material irregularity in deciding a non issue, without giving opportunity to the parties to adduce evidence, a clear miscarriage of justice had occasioned. Further,*



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*while deciding the issue of delivery of possession, it is unnecessary to go into the validity of the title which is an admitted fact by the contesting respondents. Therefore also, this Court is inclined to set aside the order impugned in the Second Appeal.*

*12. In such circumstances, this Court, without going into the other aspects on merits, set aside the decree and judgment passed by the Courts below and remits the matter to the Trial Court for being tried afresh by framing suitable issues. The Trial Court is further directed to complete the trial within a period of six months from the date of receipt of the copy of the order.”*

It is seen that the grievance of the plaintiffs that without framing an issue on the aspect of title, the Courts below had exceeded their jurisdiction and proceeded to decide the issue of title as well. This is recorded in paragraph 8 of said judgment. In paragraph No.10, this Court found merit in argument of the learned Senior Counsel that the Trial Court ought not to have ventured into issue of title but restricted itself only in respect of delivery of possession. This Court found fault with the Courts for deviating into the issue of title and enlarging the scope of the suit and held the relevant issues had not been properly considered. Further, in paragraph 10, this Court has observed that even if the title of the plaintiff is in dispute, then a specific issue ought to have framed and parties should have been allowed to let in evidence on the particular issue and on this score, the judgment of the Courts below was set aside.

11. In Paragraph No. 11, this Court has found that there is a



material irregularity in deciding a non-issue without giving opportunity to the parties to adduce evidence, which resulted in a miscarriage of justice. That apart, it is also been observed that while deciding the issue of delivery of possession, it was unnecessary to go into validity of the decree passed by this Court which had attained finality and also the validity of the title which is an admitted fact by the contesting respondents. Finally, this Court held that without going into other aspects on merits, the judgment and decree of the Courts below was set aside and the matter was remitted to the Trial Court for being tried afresh, by framing suitable issues and the Trial Court was directed to complete the Trial without a period of six months.

12. On a careful consideration of the decision in the Second Appeal, if really this Court had found that there was no necessity to go into the question of title, then there was no necessity for even remanding the matter to the Trial Court with a further direction to frame suitable issues and thereafter conduct fresh trial. At the time of disposal of the Second Appeal, the second defendant was alive and subsequently, after remand, the second defendant passed away and the legal heirs who have



been impleaded have also been permitted to file a written statement and in their written statement, they have specifically attacked the title of the plaintiffs.

13. As rightly pointed out by Mr.K.Harishankar, even from a reading of the plaint, it is seen that the plaintiffs do not assert title over schedule 2 property and there has also been subsequent developments by way of fresh lease agreement in the year 2019 in favour of the successors of the second defendant. The Trial Court has framed issues based on the pleadings including the written statement filed by the successors of the second defendant. While disposing of the Second Appeal, fresh trial has been ordered after framing suitable issues. I find merit in the arguments of Mr.K.Harishankar that it was the argument of the learned Senior Counsel appearing for the petitioners that without framing an issue on title, the Courts had decided the issue of title, that weighed in the mind of this Court and this Court remanded the matter and also directed suitable issues to be framed. If this Court had come to the conclusion that the issue of title was wholly unnecessary, then there was no occasion for remanding the matter for fresh consideration, that too after framing



issues again.

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14. Reading the entire judgment as a whole, I can only come to the conclusion that the issue of title having been decided without an issue being framed was the cause for the remand itself. Further subsequent events have taken place admittedly and additional pleadings have also come on record.

15. In the light of the above, I do not find any infirmity in the order of the Trial Court framing an issue touching the validity of title of the plaintiffs. The Trial Court has rightly come to the conclusion that the issue whether the plaintiffs have valid title of the suit property was correctly framed and there was no necessity for eschewing the said issue and consequently, recasting issues.

16. With regard to the decision of this Court in CRP. No.777 of 2020, the revision arose from an Application where certain parties sought to implead themselves in the suit and while testing the order, refusing impleadment, in passing reference this Court has interpreted the



judgment in the Second Appeal and observed that the decree has been set aside and the issue on validity of title, which is an admitted fact between the parties in the suit cannot be gone into in this proceedings and that title is a non issue in the suit and proceeded to dismiss the impleading Application filed by the Trust. At best, the observation in CRP. No.777 of 2020 can only be obiter, with no binding force or value. Infact the contesting respondents were not even heard in the said revision and being an impleading Application, it was purely a matter between the plaintiffs and the proposed parties. Therefore, I do not see the said order coming in the way of the Trial Court framing an issue regarding the title of the plaintiffs.

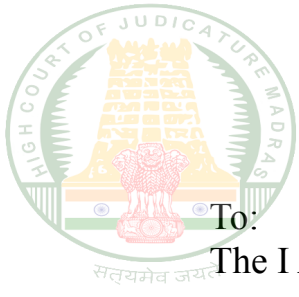
17. In fine, I do not find any merits in the Civil Revision Petition and accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

**04.09.2025**

rkp

Index : Yes / No

Internet : Yes / No



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To:

The I Additional Sub Judge,

Cuddalore.

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**P.B.BALAJI, J.,**

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**Pre-delivery order in**  
**CRP. No.3282 of 2025**  
**and CMP. No.18171 of 2025**

**04.09.2025**