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CRP Nos.4033, 4034 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-11-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP Nos.4033 and 4034 of 2025

CMP Nos.20889 of 2025

Murugesan

... Petitioner (s)

Vs.

1. N.P.Sadasivam

2 . Saraswathi

K.Subramani (died)

3 . M.Thavamani

... Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 18.07.2025 made in I.A.No.13 of 2025 in O.S.No.69 of 2012 on the file of the Sub Court, Bhavani by allowing the civil revision petition.

For Petitioner(s) : Mr.N.Manoharan

For Respondent(s) : Mr.V.Anandhamurthy



COMMON ORDER

These two civil revision petitions are filed, challenging the order passed by the court below, allowing the application filed by the respondent/plaintiff to re-open the case and to issue summon to Village Administrative Officer at Kavunthappadi.

2 . The respondents/plaintiffs filed a suit for partition in respect of 5 items of suit properties and the same was resisted by the petitioner/defendant on the ground that his father Palaniyappa Mudaliar executed a Will, bequeathing item Nos.1 and 5 in his favour. In order to prove the Will, the petitioner examined one of the attestor as DW2. The attestor was examined on 08.12.2023. During the course of cross examination, he deposed that Will was executed at the office of K.P.Manoharan, a document writer. The counsel for the respondents/plaintiffs put a suggestion to the witness that there was no document writer called K.P.Manoharan and he had no permanent office at Kavunthappadi. The said suggestions were denied by him. Therefore, the instant application has been filed by the respondents/plaintiffs seeking to reopen the case and to issue summon to the Village Administrative Officer, Kavunthappadi to establish the fact that there is no permanent office for the document writer called K.P.Manoharan, in Kavunthappadi. The said application was allowed by the court below and aggrieved by the same, the petitioner/defendant has come before this court.



3 . A perusal of typed set of papers would indicate that DW2 was cross examined on 08.12.2023. However, the present application to reopen and to issue summons were filed only on 09.07.2025. If the evidence of the Village Administrative Officer of Kavunthappadi is indispensable, the respondents/plaintiffs should have filed petitions for reopen of the case immediately. Further, both the parties advanced their arguments during April 2025 and the matter was reserved for judgment. In the meantime, Presiding Officer was transferred and the subsequent officer reopened the case and both the counsel advanced their arguments and again the matter was reserved for judgment. At this stage, the present applications have been filed by the respondents seeking to reopen the case and to issue summon to the Village Administrative Officer to examine him. If the respondents are really interested in examining the Village Administrative Officer to clarify certain facts, they should have filed necessary applications immediately after examination of DW2. They waited for two years and after advancing arguments in the main suit, filed the present applications, which appears to be to drag on the proceedings. Therefore, the Trial Court committed error in allowing the applications and hence, the same is liable to be set aside.



4. Accordingly, this civil revision petition is allowed and the impugned orders passed by the court below in I.A.Nos.13 and 14 of 2025 in O.S.No.69 of 2012 dated 18.07.2025 are set aside. There shall be no order as to costs.

Connected miscellaneous petition is closed.

07.11. 2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The Sub Judge, Bhavani.



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S.SOUNTHAR J.

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