



CRP.Nos.4385, 4392 & 4394 of 2025 and CMP.No.22436 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M. JOTHIRAMAN

CRP.Nos.4385, 4392 & 4394 of 2025

and

CMP.No.22436 of 2025

Mr.Mahaveer Jain

... Petitioner / Petitioner / Defendant
in all CRPs

Versus

Mr.G.Sankar

... Respondent / Respondent / Plaintiff
in all CRPs

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned fair order and decreetal order passed in I.A.Nos.3, 4 & 5 of 2024 in O.S.No.6472 of 2023 dated 23.07.2025, on the file of learned XXIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Udaya Kumar in all CRPs

For Respondent : Mr.P.M.Bakthavatsalam in all CRPs

COMMON ORDER

Unsuccessful defendant has preferred the present Civil Revision Petitions.



WEB COPY

2. The suit in O.S.No.6472 of 2023 was filed by one G.Sankar seeking a preliminary decree for redemption of Mortgage property, which was mortgaged for a sum of Rs.2,50,000/- under Document No.4323 of 2004, dated 27.05.2004, and for the return of the original Document No.4623 of 1997, dated 24.06.1997, which was deposited as collateral security to the simple mortgage, and for reconveyance of Mortgaged property to the plaintiff.

3. The defendant filed a written statement, and necessary issues were framed. Trial commenced, plaintiff himself examined as P.W.1, and cross examined. The case was posted for defendant side evidence. At that stage, the defendant has filed the following three applications:

(i) I.A.No.3 of 2024 in O.S.No.6472 of 2023, under Order VIII Rule 1 (A) (1) of the CPC, to receive documents on behalf of the defendant.

(ii) I.A.No.4 of 2024 in O.S.No.6472 of 2023, under Order XVIII Rule 17 of the CPC, to recall P.W.1 for further evidence of cross examination.

(iii) I.A.No.5 of 2024 in O.S.No.6472 of 2023, under Section 151 of the CPC, to reopen the plaintiff's side evidence.



WEB COPY

4. Upon hearing either side, the Court below, *vide* order dated 23.07.2025, dismissed all the applications on the ground that the defendant had failed to make any mention of the promissory note or cheques of the respondent / plaintiff and no such pleadings found in the written statement about the alleged transactions after mortgage or about the cheques or promissory notes. Aggrieved over the same, the defendant has preferred the present Civil Revision Petitions.

5. The learned counsel appearing for the petitioner would submit that the Court below ought to have given an opportunity to the revision petitioner to prove his case through documentary evidence, and the denial of such an opportunity is neither correct nor sustainable in law. The learned counsel further submits that the reasons assigned by the Court below are unsustainable in law, in view of the fact that the documents sought to be produced are relevant and vital for deciding the issues involved in the suit. Therefore, the order passed by the Court below is liable to be set-aside.



WEB COPY

6. Per contra, the learned counsel appearing for the respondent would submit that, after completion of the chief and cross examination of P.W.1, the petition filed to reopen, recall and mark additional documents is not unsustainable in law. If such a petition is allowed, it would cause serious prejudice to the plaintiff. The learned counsel further submits that in the affidavit filed by the revision petitioner, there is no mention of the details of the promissory note or the dispute regarding the alleged cheque issued. It is further submitted that the defendant had filed a written statement on 05.03.2024 and sought five adjournments to commence the trial, followed by eleven more adjournments for recording evidence. On three different occasions, the plaintiff was cross examined by the defendant. With an intention to delay the proceedings, the petitioner had chosen to file the present petition, and such applications have been rightly dismissed by the Court below. Therefore, there is no reason to interfere with the impugned order.

7. It is seen from the records that the suit is filed for a preliminary



decree for redemption of the mortgage property, which was mortgaged for a sum of Rs. 2,50,000/- under document No.4323 of 2004, dated 27.05.2004, and for the return of the original document No.4623 of 1997, dated 24.06.1997, which was deposited as collateral security for the simple mortgage.

8. It is seen from the affidavit filed by the revision petitioner / defendant in I.A.No.3 of 2024 in O.S.No.6472 of 2023, wherein it has been stated that the additional documents sought to be filed were not traceable at the time of filing the written statement and also before the commencement of the cross-examination of P.W.1. Hence, the revision petitioner was unable to file the said documents along with the written statement, which was beyond his control. It is further stated that during the preparation of the proof affidavit, his counsel for the revision petitioner directed him to trace the documents relating to borrowal after the mortgage, and with diligent search, the defendant found the promissory notes, the cheque issued by the respondent / plaintiff, and other relevant documents, which are vital for deciding the case on the side of the defendant.



WEB COPY

9. It is seen that the petition has been filed in I.A.No.3 of 2024 in O.S.No.6472 of 2023 under Order VIII Rule 1 (A) (1) of the CPC, to receive documents on behalf of the defendant in the above suit. However, no list of documents has been mentioned either in the petition or in the affidavit. The details relating to the date of execution of promissory notes, details amounts rate of interest, and the cheque number have also not been specified. It is stated in the affidavit that since the suit has been posted for the defendant's evidence after the closing the evidence of P.W.1, the defendant intend to file additional documents and also to further cross - examine the P.W.1 based on additional documents. However, it is seen that the petitioner has not chosen to file any documents along with the petition. Though the revision petitioner / defendant has stated in the affidavit that the additional documents were not traceable at the time of filing the written statement and before the commencement of the cross-examination of P.W.1, such explanation appears insufficient.

10. In the counter affidavit filed by the respondent / plaintiff in that applications, wherein it has been stated that the defendant is attempting to fill up the lacuna in the evidence of P.W.1 and to drag on the proceedings. The



documents now sought to be marked have been recently traced, and the reasons assigned in the affidavit are not sufficient to reopen the case.

11. During the course of arguments, the learned counsel for the revision petitioner submitted that the order passed in I.A.No.4 of 2024, seeking to recall P.W.1 and reopen the case, was filed only with an intention to justify and seek indulgence of the Court in connection with the order passed in I.A.No.2 of 2024, which sought permission to receive the documents on behalf of the defendant. Even in the said application filed in support of the petition to receive additional documents, details of the documents have not been furnished.

12. In view of the above, there is no reason to interfere in the order passed in I.A.Nos.3, 4 & 5 of 2024 in O.S.No.6472 of 2023, dated 23.07.2025, on the file of learned XXIII Assistant Judge, City Civil Court, Chennai. However, in order to decide the real issue in controversy between the parties, an opportunity may be given to the revision petitioner / defendant to file a fresh application to receive the documents, by furnishing necessary particulars with details of the documents before the Court below, in the



manner known to law. The revision petitioner / defendant, if so advised, shall file such an application to receive the documents within a period of two weeks from the date of receipt of a copy of this order. Upon filing such applications if any, the learned XXIII Assistant Judge, City Civil Court, Chennai, is requested to dispose of the applications as expeditiously as possible.

13. Accordingly, these Civil Revision petitions are dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

24.09.2025

av

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned XXIII Assistant Judge, City Civil Court, Chennai.



WEB COPY



CRP.Nos.4385, 4392 & 4394 of 2025 and CMP.No.22436 of 2025

M. JOTHIRAMAN, J.

av



WEB COPY



CRP.Nos.4385, 4392 & 4394 of 2025 and CMP.No.22436 of 2025

CRP.Nos.4385, 4392 & 4394 of 2025
and
CMP.No.22436 of 2025

24.09.2025