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C.R.P.No.13 & 15 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.Nos.13 & 15 of 2025
&
C.M.P.Nos. 106 & 109 of 2025

R.C.Dhanraj

...Petitioner in both petitions

Vs.

1.B.Prakasam

2.B.Sekar

...Respondents in both petitions

Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India against the order dated 19.10.2024 made in IA.Nos.4 & 5 of 2024 in OS.No.899 of 2012 on the file of the Principal District Munsif, Alandur.



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For Petitioner : Mr. K.P.P.Raja Raja Chozhan
(In Both petitions)

For Respondents : No Appearance.
(In Both petitions)

ORDER

The defendant has filed the above Civil Revision Petitions challenging the dismissal of his applications to reopen and recall PW1 cross examination. The brief facts are as follows.

2. The respondents had filed OS.No.899 of 2012 on the file of the Principal District Munsif, Alandur, for an injunction restraining the petitioner from interfering with their peaceful possession and enjoyment of the suit property.

3. The plaintiffs' case is that they are the owners of the suit property which is a vacant site. This property was originally part of a larger extent of an agricultural land which was converted into several



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house site plots and named as *Officers and Staff colony*. One Ramachandra Naicker, the plaintiffs's uncle purchased the suit property under a registered sale deed dated 26.03.1993, measuring an extent of 3305 sq.ft., After his purchase, he sold the eastern portion measuring 1775 sq.ft., to one Sathiyasankar and Geetha and retained 1530 sq.ft., in the western portion.

4. During his life time he had executed a registered Will dated 18.08.1997 bequeathing the suit property in favour of the plaintiffs herein and on his death on 22.08.1997, the Will had come into force. The plaintiffs had thereafter got the revenue records mutated in their name.

5. While so, in the month of July 2012 the defendant claimed the western portion of the suit property as his property. In September 2012, the plaintiffs have surveyed and measured the suit property with the help of Taluk Surveyor and the Taluk Surveyor had confirmed the boundary and identification of the suit property.



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6. On 08.11.2012 some rowdy elements claiming to be the agents of defendant attempted to demolish the compound wall constructed on the suit property and the same was prevented by the plaintiffs. Therefore, the plaintiffs have come forward with the suit in question.

7. The defendant had filed a written statement inter lia contending that the Will under which the plaintiffs claim a right is a forged one and he is the absolute owner of the property bearing plot no.1A. The larger extent of the property measuring 1.52 ½ acres belonged to one Kammalammal and Seshachari, who sold the property to Ramachandra Naicker under a registered sale deed dated 31.03.1947.

8. The said Ramachandra Naicker executed a power of attorney in favour of one Murugammal for the purpose of developing the property into house sites. Plot No.1 was purchased by one Ellkanaprakash from Ramachandra Naicker to an extent of 1800 sq.ft., and he was in possession and enjoyment of the same and he had



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executed the power of attorney dated 25.01.2006 in favour of one Selvamani in respect of this extent of land.

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9. The power of attorney sold the property to one Chandrasekaran under a registered sale deed dated 25.01.2006. He inturn sold the property to one Radhakrishnan under a registered sale deed dated 08.02.2008. Radhakrishnan later subdivided the plot No.1 and sold a portion bearing Plot No.1 A measuring 900 sq.ft., in favour of Imanuvel and the defendant purchased the same from the said Imanuvel. Therefore the petitioner / defendant would submit that he alone is the owner of the property.

10. When the suit was posted for cross examination of PW1 on 11.09.2024 since defendant had not appeared for cross examination the cross examination of PW1 was closed on the very same day. Therefore, aggrieved the petitioner filed an applications for reopen and recall. These applications have been dismissed.



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11. Challenging the same the petitioner / defendant is before this Court.

12. The contention of the petitioner is that the applications had been dismissed only on the ground that the petitioner has not cross examined PW1 for three hearings and that a senior citizen has been made to wait. The learned counsel would submit that that was absolutely wrong and to prove the same he has produced the e-Court's adjudications. A perusal of the same would indicate that PW1 has been cross examined on 14.08.2024 and 27.08.2024 in part. The observation of the learned Trial Judge that the defendant had not cross examined the witness on 14.08.2024, 23.08.2024, 27.08.2024 and 02.09.2024 may not be correct for the reason that on 14.08.2024, PW1 was examined in part and the matter was adjourned to 23.08.2024. On 23.08.2024 though PW1 was present the plaintiffs' counsel was not present and the defendant was present. Therefore the matter was adjourned to 27.08.2024. On 27.08.2024, PW1 was cross examined



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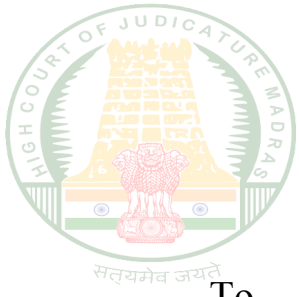
further in part and Ex.B.1 marked. Thereafter, matter adjourned to 02.09.2024. On 02.09.2024 the counsel had a personal inconvenience and not only was the request for adjournment rejected but the plaintiffs' evidence has been closed.

13. Therefore, the dismissal of the applications appears to be that on a wrong premise. The Civil Revision Petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

12.03.2025

Index : Yes/No
Internet : Yes/No

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To
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The Principal District Munsif,
Alandur.



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