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CRP(PD).Nos.39 to 41 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).Nos.39 to 41 of 2025

and

CMP.No.317 of 2025

R.S.Janarthanan (Died)

1.R.V.Dheenadayalan

2.R.V.Jayaprakash

... Petitioners in all CRPs

Vs.

1.R.S.Babu

2.K.Indhumathi

3.S.Kalaiselvi

4.G.Karthick

5.G.Sathyamoorthy

... Respondents in all CRPs

Prayer in CRP.No.39 of 2025:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed on 28.11.2024 in IA.No.11 of 224 in OS.No.6606 of 2018 by the Hon'ble XV Assistant City Civil Court at Chennai.



CRP(PD).Nos.39 to 41 of 2025

Prayer in CRP.No.40 of 2025:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed on 28.11.2024 in IA.No.10 of 224 in OS.No.6606 of 2018 by the Hon'ble XV Assistant City Civil Court at Chennai.

Prayer in CRP.No.41 of 2025:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed on 28.11.2024 in IA.No.9 of 224 in OS.No.6606 of 2018 by the Hon'ble XV Assistant City Civil Court at Chennai.

[Cause title accepted vide common order dated 18.12.2024 made in CMP Nos.29306, 29309 and 29315 of 2025 in CRP.Sr.Nos.172595, 172597 & 12596 of 2024 by VLNJ]

For Petitioner : M/s. S.V.Drajendra Prasad
in all the CRPs

COMMON ORDER

Challenging the dismissal of their applications filed by them, namely, (i) IA.No.11 of 2024 – to receive the additional evidence, (ii) I.A.No.10 of 2024 – to recall the PW.1 evidence for cross examination and (iii) I.A.No.9 of 2024 – to reopen the P.W.1 evidence for cross examination, the defendants 2 and 3 are the petitioners before this Court.

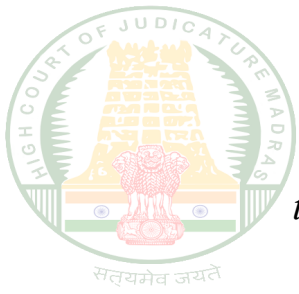


2. Since all the interlocutory applications arise from out of a single suit a common order is being pronounced in the above Revision Petitions. The facts necessary to dispose of these civil revision petitions are herein below set out:-

3. The respondents herein had filed a suit OS No.6606 of 2018 on the file of the XV Assistant City Civil Court, Chennai for the following reliefs:-

" a) For Declaration declaring the Partition deed bearing document No.2111/of 2005 dated 08.06.2005 and registered at SRO Anna Nagar, executed between 2nd & 3rd defendant, in so far as the plaintiffs' share are concerned as non-est, void and not binding on the plaintiffs herein in any manner whatsoever;

b) For Declaration declaring the Settlement deed document No.181/2009 dated 23.01.2009 registered at SRO Anna Nagar, executed by 3rd defendant in favour of 2nd defendant, in so far as



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the plaintiffs' share are concerned as non-est, void and not binding on the plaintiffs herein in any manner whatsoever;

c)For permanent injunction restraining the respondent/defendant his men, agents from alienating or from creating any encumbrance over the suit property"

4. The case of the respondents/plaintiffs is that the 1st defendant is the younger brother of the father of plaintiffs 1 and 2 and the grandfather of plaintiffs 3 to 5, namely, late R.S.Sundar Ramanujam. Defendants 2 and 3 are the co-brothers of the plaintiffs and their father late R.S.Jaganmohan alias Venu is also the younger brother of R.S.Sundar Ramanujam.

5. The suit schedule property originally belonged to one R.Srinivasalu Chetty, the grandfather of the plaintiffs, he having purchased the same from one Venkatasamy on 31.10.1947 and Ponnammal on 12.03.1948. Their grandfather had sold a portion of the



property measuring 1201 sq feet to one Ponraj on 20.04.1990.

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6. The said R.S.Sundar Ramanujam died on 16.10.1989 leaving behind him surviving the plaintiffs 1 and 2 and one Mrs. Leela who is the mother of plaintiffs 3 to 5. The said Leela had passed away on 04.12.2007 and her husband Ganesan also passed away on 05.09.2010. R.S.Jaganmohan died intestate leaving behind him surviving the 2nd and the 3rd defendants as his legal heirs. The plaintiffs would submit that their grandfather R.Srinivasalu Chetty died on 21.04.1993 leaving behind the plaintiffs and defendants as his legal heirs.

7. The plaintiffs would submit that the 1st plaintiff and his mother had approached the 1st defendant and the father of defendants 2 and 3 for partition. However, the said request was not acceded to. The plaintiffs would submit that after the death of R.Srinivasalu Chetty, both the plaintiffs and defendants are entitled to a 1/3rd share each in the suit schedule property.



8. On 22.09.2018, the plaintiffs had orally requested the defendants for partition but the 2nd and the 3rd defendants not only refused to partition the property but also threatened the plaintiffs. Thereafter, the plaintiffs had applied for an encumbrance certificate in respect of the property and it was only then they came to know about the illegal settlement deeds that had been executed by the defendants amongst themselves. Therefore, the respondents/plaintiffs have come forward with the suit in question.

9. The respondents had filed a written statement in the main suit denying the claim of the plaintiffs. When the matter was posted for arguments, the above-mentioned Interlocutory Applications that are impugned in the above Civil Revision Petitions came to be filed and the same were dismissed by the learned XV Assistant Judge, City Civil Court, Chennai by taking note of the fact that the applications for recall and reopen has not only been filed now at the stage of arguments but also after earlier applications for reopen and recall of PW1 evidence had been allowed on condition by the Court in IA.Nos.5 and 6 of 2024 and the petitioners have cross examined PW1



on 22.02.2024. The learned judge had ultimately held that the applications are nothing but an attempt to protract the proceedings.

Challenging the same, the petitioners are before this Court.

10. Heard the learned counsel appearing for the petitioners and perused the records.

11. A perusal of the records would show that the petitioners had earlier filed IA Nos. 5 and 6 for reopening and recalling the evidence of PW1. These applications were allowed on conditions and PW1 has been cross examined on 22.02.2024. The impugned applications have been filed when the matter is listed for arguments and the petitioners have submitted their written arguments. In the affidavit filed in support of these applications, the petitioners have not given any reason as to why the document, which is a legal notice dated 01.02.2007, was not marked at an earlier point in time, despite the same being available with them. It is not the case of the petitioner that these documents were not available with them and the same has been discovered only now. The only reason that is given is that by an



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oversight the same has not been marked. The conduct of the petitioners clearly indicate their intentions to protract the proceedings and not to allow the litigation to come to a close. Having had an opportunity earlier to cross examine PW1 after their applications for recall and reopen had been allowed, the petitioners cannot once again seek the very same relief.

12. Therefore, the order passed by the learned XV Assistant City Civil Court at Chennai does not suffer from any infirmity and consequently the Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

03.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The XV Assistant City Civil Court at Chennai.



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P.T. ASHA. J.,

(shr)

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