



CRP(MD). Nos.156 and 157 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10/09/2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD)Nos.156 and 157 of 2023
and
CMP(MD)No.737 of 2023

Tr. Narayanasamy

... Petitioner

Vs

Gomathi Nagarajan (Died)

1.M.Rajkanna,
S/o.Mahalingham,
Door No.50, Kalimuyhupillai Lane,
Dinidigul Town.

2. Muthulakshmi,
W/o.Rajkanna,
Door No.50, Kalimuyhupillai Lane,
Dinidigul Town.

N.Krishnamoorthy (Died).

3. J.Parvatham,
W/o.Jegatheesan,
Door No.50/1,
Krishnarav 3rd Street,
Sri Nagaraj Kudil),
Dindigul Town,
Dindigul.



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4. Rajalakshmi,
W/o.Jeyachandran,
Door No.22, Anjal Nagar,
Adjacent Lane,
Near to (Vaithiya Vinayakar Temple),
Madurai.

5. N.Meenalochini,
W/o.Venkateramanan,
Door No.12, Thamarai Street,
Anjal Nagar Opposite,
Kodal Nagar Viz.,
Madurai -5.

6. K.Lalitha,
W/o.Krishnamoorthy,
Door No.7, E.B.Colony,
1st Street,
Dindigul -1.

7. K.Balaji,
S/o.Krishnamoorthy,
Door No.7, E.B. Colony,
1st Street, Dindigul -1.

... Respondents

PRAYER in CRP(MD)No.156 of 2023:-

Civil Revision Petition filed under Article 227 of the Constitution of India to allow this civil revision petition setting aside the order dated 28-11-2022 made in I.A.No.125 of 2010 in A.S.No.131 of 2007 on the file of the Principal Subordinate Court, Dindigul.



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PRAYER in CRP(MD)No.157 of 2023:-

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Civil Revision Petition filed under Article 227 of the Constitution of India to allow this civil revision petition setting aside the order dated 28-11-2022 made in I.A.No.107 of 2014 in A.S.No.131 of 2007 on the file of the Principal Subordinate Court, Dindigul.

For Petitioner : M/s.R.G.Shankarganesh,
Advocate.

For Respondents : Mr.H.Lakshmi Shankar for R3 to R7

ORDER

These Civil Revision Petitions are filed challenging the order dated 28-11-2022 made in I.A.No.125 of 2010 and in I.A.No.107 of 2014 in A.S.No.131 of 2007 on the file of the Principal Subordinate Court, Dindigul.

2. Learned counsel for the petitioner would submit that in an pending appeal suit, he had filed an interlocutory application under Order 41 Rule 27 to receive additional documentary evidence. He would submit that the petitioner had filed a suit for permanent injunction as

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against the respondents which was partly decreed. Hence, he had preferred an appeal suit against the disallowed portion. In the primary decree a finding that the petitioner had not produced certain documents for such disallowed portion has been made. Hence he had sought to produce the documents in the appeal suit. However, the Court without disposing of the same had passed an order that the necessity for additional evidence could be considered at the time of deciding the appeal. He would submit that the procedure that is sought to be adopted by the first appellate Court in dealing into the necessity of additional documents only at the time of hearing the appeal would only delay the proceedings if the document are held necessary. If the application is decided on its own merits, evidence could be recorded for the same and appeal could be decided independently. In support of his contention, he had also relied upon the judgment of the Hon'ble Apex Court reported in **2018 (9) SCC 445** in the case of **Corporation of Madras and another Vs M.Parthasarathy and others, 2008 (8) SCC 511** in the case of **North Eastern Railway Administration, Gorakhpur Vs Bhagwan Das (D) By Lrs.** and **2019 (15) SCC 201** in the case of **G.Shashikala (Died) Through LRs Vs G.Kalawati Bai(Died) Through L.R. & Others.**



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Therefore, he seeks interference of the order passed by the first appellate Court.

3. Countering his arguments, learned counsel for the respondents 3 to 7 would contend that the Court below had followed the proper procedure as prescribed in that regard. Only during the hearing of the merits of the appeal, if it is required the additional documents sought to be introduced under Order 41 Rule 27, can be ordered to be taken. On that stage, the first appellate Court can either set aside the judgment and decree of the Court and remit the matter for recording of further evidence on the documents filed by the petitioner, also with liberty to the other side for giving evidence by way of rebuttal or the first appellate Court keeping the appeal in abeyance direct the trial Court to record evidence and remit the evidence back for consideration in the appeal. In the present case, the hearing of the appeal is yet to be taken up and only during the course of the appeal, the application under Order 41 Rule 27 could be considered by the Court and therefore, he would submit that there is no infirmity in the order passed by the first appellate Court.



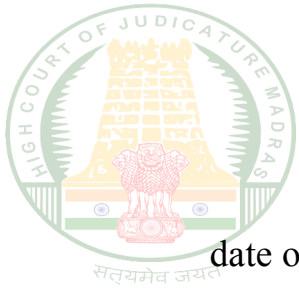
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4. This Court has considered the submissions made by the learned counsel on either side. Even in the judgment relied upon by the learned counsel for the petitioner, the Hon'ble Apex Court has laid down the procedure and the manner in which an application under Order 41 Rule 27 would have to be considered. Under the impugned order, the first appellate Court had only held that the claim under Order 41 Rule 27 cannot be independently considered and could be only considered during the hearing of the appeal suits. The same is in consonance with the judgment of the Hon'ble Apex Court relied upon by the petitioner. For the aforesaid reasons, this Court do not find any material irregularity that had been committed by the Court below in the order impugned.

5. For the aforesaid reasons, the Civil Revision Petition fails and it accordingly dismissed.

6. Considering the fact that the appeal suit is of the year 2007, there shall be a direction to the learned Principal Sub Judge, Dindigul, to dispose of the appeal suit in A.S.No.131 of 2007 along with I.A.No.125 of 2010 and I.A.No.107 of 2014 within a period of eight weeks from the



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date of receipt of a cop of this order. No costs. Consequently, connected
miscellaneous petition stands closed.

10.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1. The Principal Subordinate Court, Dindigul.
2. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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K.KUMARESH BABU, J.

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ORDER
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