



Rev. Applc.(MD)No.58 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.06.2025

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THE HON'BLE MR.JUSTICE G.ILANGOVAN

Rev. Applc.(MD)No.58 of 2025

Karuppaiah

... Review Petitioner/Petitioner

Vs.

M.Dhanam

... Respondent/Respondent

PRAYER in Rev. Applc.(MD)No.58 of 2025: Review application is filed under Order 47 Rule 1 & 2 of C.P.C., to review the order, dated 19.03.2024 passed in C.R.P.(MD).No.2959 of 2023.

PRAYER in C.R.P.(MD).No.2959 of 2023.: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.09.2023 passed by the IV Additional Subordinate Judge, Tiruchirappalli in I.A.No.5 of 2023 in O.S.No.696 of 2014.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.M.Saravanan



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ORDER

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2.The facts in brief:

C.R.P.(MD).No.2959 of 2023 was filed by this review petitioner namely Karuppaiah challenging the order passed by the trial Court in I.A.No.5 of 2023 in O.S.No.696 of 2014. The order under challenge is pertaining to a petition filed by the respondent herein as plaintiff to examine witness stating that summons were taken by her to examine the attesting witness to the Will dated 30.09.1999. Those witness summons were returned by amin stating that it could not be served. So the petition was filed to examine the process servers.

3.It was resisted by the review petitioner herein stating that the process servers were examined on the side of the plaintiff. The summons sent to the first witness to the Will was returned to be dead and second witness was not available in the address. So without mentioning the above said aspect I.A.No.5 of 2023 was filed.



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4.The trial Court after hearing both sides allowed the petition finding that the process server was examined as PW3. One Sumathi who is the daughter of one of the attesting witness was examined as PW4. It was contended by the review petitioner before the trial Court that there is some discrepancy in the summons to Perumal regarding the address. So PW3 did not verify the correct address. So summon was again taken to Perumal. Due to the absence of door number, it was returned. The daughter-in-law of Perumal informed PW3 that he was dead. The process server, who was examined as PW2 for witness Shanmugam has returned the summon without proper verification. The trial Court finding that proper endorsement was not made by PW2 and PW3. So again summons were issued to the concerned witnesses. The process servers must be examined with reference to the summons served.

5.So the review petitioner was directed to verify whether the above said persons namely Perumal and Shanmugam are still alive. Now it is clarified by the review petitioner that both the witnesses namely Perumal and Shanmugam are dead. So in view of the above said liberty was



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granted to the respondent herein to proceed in accordance with law to prove the Will. Revision was disposed of.

6. Against which this review application is filed stating that no such submission was made before this Court by the counsel on record for the review petitioner.

7. This Court is at loss to understand as to how the said submission can be made before this Court. The Civil revision petition was repeatedly adjourned directing the review petitioner to verify the correct status. Only after verification it appears that the above said submission was made before this Court. Now it is stated that there is no clear idea to them about the availability or non availability of attesting witnesses namely Perumal and Shanmugam. Since the review petitioner wants to withdraw his submission before this court the above said submission is placed on record.

8. So in view of the above the order passed by this Court dated 19.03.2024 stands clarified that the trial Court is at liberty to proceed in



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accordance with law. In stead of summoning the process servers, direction is issued to the trial Court to issue fresh summon to the attesting witnesses through some other process servers. The process servers concerned may be directed to verify the availability or non availability of the witnesses in proper manner. They may be directed to get acknowledgement of service from the concerned Village Administrative Officers to avoid unnecessary issue in future.

9.With this direction this review application stands allowed. The order passed in the above said civil revision petition dated 19.03.2024 is clarified as noted above.

02.06.2025

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

- 1.The IV Additional Subordinate Judge, Tiruchirappalli.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGO VAN,J.

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