



**C.R.P(PD)(MD)Nos.475 to 477 of 2021**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 06.03.2025**

**CORAM :**

**THE HONOURABLE MS. JUSTICE R.POORNIMA**

**C.R.P(PD)(MD)Nos.475 to 477 of 2021**  
**and C.M.P.(MD)No.2571 of 2021**

John Joseph

... Petitioner in  
all C.R.Ps.

Vs

1.Donalid Doni

Rayappan (Died)

2.Rajammal

3.Leela

4.Sundar

5.Rathi alias Jerin Radha Bai

... Respondents in  
all C.R.Ps.

Common Prayer : These Civil Revision Petitions are filed under Section 227 of the Constitution of India against the order and decreetal order in I.A.Nos.1 to 3 of 2019 in O.S.No.76 of 2018 on the file of Sub Judge, Eraniel, dated 18.04.2019.



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For Petitioner : Mr.V.M.Balamohan Thampi  
(In all C.R.Ps)

For Respondents : Mr.F.X.Eugene  
(In all C.R.Ps)

### **COMMON ORDER**

These Civil Revision Petitions have been filed against the order and decretal order in I.A.Nos.1 to 3 of 2019 in O.S.No.76 of 2018 on the file of Sub Judge, Eraniel, dated 18.04.2019.

2. The case of the petitioner is that he had filed applications in I.A.Nos.1 to 3 of 2019, seeking to re-open, recall and receive the documents. The trial Court dismissed the above applications by an order dated 18.04.2019. Against which, the petitioner has filed these present Civil Revision Petitions.

3. The learned counsel for the petitioner submitted that the petitioner has filed a suit in O.S.No.76 of 2018 seeking for declaration and permanent injunction. The respondents also filed written statement



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and counter claim with a prayer to declare the partition deed as null and void and also were prayed to declare the mutation proceedings of the Thasildar, Kalkulam as null and void. The learned counsel for the petitioner further stated that before the trial Court, the evidence of both sides was over and the suit was posted for arguments. He further submitted that the petitioner has traced some documents to prove his title and sought permission to allow him to file the above documents to show his title. The petitioner wanted to file nine documents. Some of the documents are in Malayalam and he has also wanted to file the Tamil version and the other documents need to be filed is old settlement copy of survey number 10995, letter's of Colachel Village, land tax receipt and encumbrance certificate. He further submitted that he wanted to file the deposition of the Office Assistant of Colachel Sub Registrar's Office, in which he registered documents, which is in a damaged condition and he had a copy with him and he wanted to file the same. He further argued that he traced some documents from his ancestors and in order to prove his title, he wanted to file the same and which is highly necessary to determine the title.



4. The learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court of India in ***K.K.Velusamy Vs. N.Palanisamy*** reported in ***AIR 2011 SC (Civil) 1000***, wherein it was held as follows:

*“14. The amended provisions of the Code contemplate and expect a trial court to hear the arguments immediately after the completion of evidence and then proceed to judgment. Therefore, it was unnecessary to have an express provision for re-opening the evidence to examine a fresh witness or for recalling any witness for further examination. But if there is a time gap between the completion of evidence and hearing of the arguments, for whatsoever reason, and if in that interregnum, a party comes across some evidence which he could not lay his hands earlier, or some evidence in regard to the conduct or action of the other party comes into existence, the court may in exercise of its inherent power under section 151 of the Code, permit the production of such evidence if it is relevant and necessary in the interest of justice, subject to such terms as the court may deem fit to impose.*

*15. The learned counsel for respondent contended that once arguments are commenced, there could be no re-opening of evidence or recalling of any witness. This contention is raised by extending the convention that once arguments are*



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*concluded and the case is reserved for judgment, the court will not entertain any interlocutory application for any kind of relief. The need for the court to act in a manner to achieve the ends of justice (subject to the need to comply with the law) does not end when arguments are heard and judgment is reserved. If there is abuse of the process of the court, or if interests of justice require the court to do something or take note of something, the discretion to do those things does not disappear merely because the arguments are heard, either fully or partly. The convention that no application should be entertained once the trial or hearing is concluded and the case is reserved for judgment is a sound rule, but not a straitjacket formula. There can always be exceptions in exceptional or extra-ordinary circumstances, to meet the ends of justice and to prevent abuse of process of court, subject to the limitation recognized with reference to exercise of power under section 151 of the Code. Be that as it may. In this case, the applications were made before the conclusion of the arguments.*

*16. Neither the trial court nor the High court considered the question whether it was a fit case for exercise of discretion under section 151 or Order 18 Rule 17 of the Code. They have not considered whether the evidence sought to be produced would either assist in clarifying the evidence led on the issues or lead to a just and effective adjudication. Both the courts have mechanically dismissed the application*



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*only on the ground that the matter was already at the stage of final arguments and the application would have the effect of delaying the proceedings.”*

5. The learned counsel for the petitioner has also relied upon a judgment of this Court in ***P.Vellur Vs. P.Pandian (Died) & Others*** reported in **2020-4 L.W. 890**, wherein it was held as follows:

*“12.As pointed out earlier, the petitioner has got reason for getting opportunity to cross examine DW-1 after the additional issue relating to counter claim was framed. This should be given as a matter of right. The trial Court dismissed the petition filed by the revision petitioner to recall the witness on the ground that such power cannot be exercised by the Court at the instance of the plaintiff. After dismissing the application to recall DW-1, the lower Court has dismissed the petition to reopen the case on the ground that the petition to recall DW-1 was dismissed by the Court. The power of the Court under Order 18 Rule 17 CPC to recall any witness is absolute and that it can be exercised either on its own motion or on the application of any of the parties to the lis. The language employed under Order 18 Rule 17 does not prevent the Court from exercising the power to recall the witness at the instance of plaintiff or defendant. In the present case, the peculiar circumstances warrant such power being exercised by the Court to render justice.”*



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6. The learned counsel for the petitioner would submit that the only ground for rejection by the trial Court is the above applications are filed belatedly and also filed the same in order to fill up the lacuna and no other reasons were found in the order of the trial Court and therefore, prayed to allow him to file the additional documents and to mark the same through P.W.1.

7. The learned counsel appearing for the respondents argued that the suit was filed in the year 2018 and it is pending for long time. The documents, which are sought to be marked, are not mentioned in the plaint. When the evidence of both sides was over and when the matter was posted for argument, the petitioner came with these applications and he has not stated any reason for the delay in filing the above applications and it is his duty to explain the delay. There is no plausible reason that why he has not produced the documents in earlier occasion. The above applications are highly belated and he has also wanted to examine P.W.1 and no reasons have been stated for the delay in filing the above applications and there is no *bonafide* reasons in the applications and



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therefore, the trial Court has correctly dismissed the suit as he has not mentioned the reason for delay.

8. This Court has heard the submissions made by both sides and also perused the records carefully.

9. The petitioner wanted to file some documents and therefore, he has filed the above applications. In a suit for declaration of title, the documents play a crucial role to establishing the title of the respective parties. The Court must determine whether the documents sought to be filed are relevant and admissible. Furthermore, mere production of documents does not prove title. It is the duty of the Court to allow the petitioner to produce the documents and thereafter, can determine whether the the petitioner has successfully proven his claim. It is true that the petitioner filed the above applications without proper reason for filing such application at an early stage. However, though there is a delay, if he has not allowed to produce the above documents, he cannot prove his title. Therefore, in order to provide fair opportunity, this Court decided to allow these Civil Revision Petitions by setting aside the orders of the lower Court.



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**10.** Accordingly, these Civil Revision Petitions are allowed and the orders dated 18.04.2019 passed in I.A.Nos.1 to 3 of 2019 in O.S.No.76 of 2018 are set aside. The petitioner is directed to pay a sum of Rs. 2,500/- to the respondents for the delay and he should also produce the documents within 10 days from the date of receipt of a copy of this order and to adduce the evidence. The respondents are also to be provided with fair opportunity to cross examine the witness. If the cost is not paid within 10 days after receipt of a copy of this order and if he failed to produce and adduce the evidence, the above applications will be automatically dismissed. The trial Court is also directed to complete the trial within three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

**06.03.2025**

NCC :Yes/No  
Index :Yes/No  
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**R.POORNIMA, J.**

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To

- 1.The Sub Judge, Eraniel.
- 2.The Section Officer, VR Section,  
Madurai Bench of Madras High Court, Madurai.

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