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CRP Nos. 792 and 793 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP Nos. 792 and 793 of 2026 and

CMP No.4105 of 2026

Bhakiyam (Died)

Senbagavalli, ,W/o. Nagarajan,
Nallampalli,
Thengaimaathupatti,
Venkattammanpatti Post,
Dharmapuri Taluk,
Salem District.

..Petitioner(s)

Vs

1. Madhusamy, S/O. Karuppanna Gounder,
2. Nallusamy ,s/o.Karuppanna Gounder,

Chinnusamy(Died)

3. Thangammal, W/o.Chinnusamy,
4. Sivashankaran, S/o.Chinnusamy,
5. Malathi, D/o.Chinnusamy,
6. Indhira Priyadharshini, D/o.Chinnusamy,
respondents 1 to 6 are residing at
Veeranur, North Tottakadu,
Gonur West Pot, Mettur Taluk,
Salem District.

Ammasi (Died)



7. Thiruvadivambigai, W/o.Vaithiyalingam,
Rettaipuliyamarathanur, R.C.Plant,
Mettur Tk, Salem Dist.

8. Thilagavathi, W/o.K.M.Sakthivel,
Erikadu, Gonur post,
Mettur Tk, Salem Dist.

9. The District Collector
Collectorate, Salem.

10.The Tahsildar
Tahsildar Office, Mettur.

..Respondent(s)

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India to set aside the fair and decreetal dated 12.11.2025 in IA.Nos 12 and 13 of 2025 in OS.NO.214/2011 on the file of District Munsif Court, Mettur, Salem.

For Petitioner(s): Mr. A.Ashok Kumar

For Respondent(s): Mr.N.Muthuvel, Govt.Advocate
for R9 and R10

ORDER

These civil revisions have been filed challenging the orders passed by the Trial Court, allowing the applications filed by the respondents 1 to 6 herein seeking to reopen the case and to recall DW1 for the purpose of marking copies of the pleadings and judgment and decree passed in O.S.No.144 of 2021.



2. The petitioner herein/plaintiff filed the above said suit seeking declaration of title and permanent injunction. The respondents 1 to 6 herein were arrayed as defendants 4 to 7 and 10 to 12 in the said original suit. Trial in the suit was already commenced and cross examination of DW1 was over and the suit has been posted for further examination of DWs. At this stage, the respondents 1 to 6 herein filed the instant applications seeking to reopen the case and to recall DW1 for the purpose of marking documents relating to the suit filed by the respondents 1 to 3 herein against the petitioner herein in O.S.No.144 of 2021. The said applications were allowed by the Trial Court. Aggrieved by the same, the petitioners have come before this court.

3. The learned counsel for the petitioners/plaintiffs would contend that when the 2nd respondent herein (Nallusamy) was examined as DW1, the plaintiffs' counsel cross examined him with respect to the sale deed executed by the deceased first plaintiff in favour of the 2nd plaintiff, however, he did not reveal the pendency of O.S.No.144 of 2021 filed by the respondents 1 to 3. Therefore, the respondents 1 to 6 are not justified in seeking the recall of the witness for the purpose of marking the documents as mentioned above. The learned counsel further submits that the respondents 1 to 3, by playing fraud, have obtained an ex parte decree in O.S.No.144 of 2021 and therefore, the said documents shall not be taken into consideration.



4. The suit in O.S.No.144 of 2021 was filed by the respondents 1 to 3 herein against the petitioners herein seeking declaration that the Will dated 23.06.2014 executed by the deceased first petitioner herein in favour of 2nd petitioner herein was null and void and for the relief of permanent injunction restraining the petitioners from interfering with their alleged possession over the suit property.

5. It is not disputed that the subject matter of the present suit and the subject matter of the suit in O.S.No.144 of 2021 are one and the same. The suit in O.S.No.144 of 2021 was decreed exparte on 17.06.2025, viz., when the cross examination of DW1 in the instant suit was going on. The evidence of DW1 was closed on 08.07.2025 and thereafter, the respondents 1 to 3 herein filed the instant applications on 13.08.2025 seeking to recall and reopen the evidence of DW1 for the purpose of marking the plaint and the exparte decree passed in O.S.No.144 of 2021.

6. When the subject matter of the present suit and the subject matter of the suit in O.S.No.144 of 2021 are one and the same and the exparte decree for injunction is in operation, the respondents 1 to 3 are certainly entitled to mark the pleadings and the decree passed in the above said suit, which are relevant to the present case, since the said documents will have an impact on the outcome



of the present suit. The trial court rightly allowed the applications and I do not find any error to interfere the same.

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7. The point raised by the counsel for the petitioners/plaintiffs regarding the fraud allegedly played by the respondents 1 to 3, while obtaining the exparte decree, is a matter to be adjudicated by the concerned court in an application, if any, filed by the petitioner seeking to set aside the exparte decree. Hence, the said point cannot be considered in this civil revision petition.

8. Accordingly, the civil revision petitions are dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

18-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

The District Munsif,
Mettur, Salem.



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S.SOUNTCHAR, J.

MST

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