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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 1597 of 2024
and CMP No.8554 of 2024

CNR: {HCMA010687322024}

Case QR

Sundar Raj
S/o.Krishnasamy

..Petitioner(s)

Vs

1. Jaganathan
   S/o.Narayana Gounder

2. Arivalagan
   S/o.Narayana Gounder

3. Rajaram
   S/o.Narayana Gounder

..Respondent(s)

Prayer:

Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order of the learned II Additional District Judge, Tindivanam made in IA No.3/2024 in OS No.24/2019 dt. 27.03.2024.

For Petitioner(s): Mr. M.R.Thangavel

For Respondent(s): Mr. L.Palani Muthu for R1

for R2 and R3 – sd- NA

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ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order passed in IA No.3/2024 in OS No.24/2019 dated 27.03.2024, on the file of the learned II Additional District Judge, Tindivanam, wherein the application filed by the petitioner/plaintiff to call the 3rd defendant as a witness on the side of the plaintiff, came to be dismissed by the Court below.

2.Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

3.This Court carefully considered the submissions made on either side and the materials available on record and this Court also went through the order passed by the Court below.

4.The suit was filed by the petitioner seeking for the relief of specific performance. The application was filed by the petitioner in IA.No.3 of 2024 to call the 3rd defendant as a witness on the side of the plaintiff on the ground that D1 to D3 had executed the sale agreement dated 20.7.2007 and insofar as D2 and D3 are concerned, they have acted upon the sale agreement and executed a sale deed dated 11.10.2017 in favour of the petitioner and what remains was the

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portion which was described in B schedule, which was yet to be conveyed in favour of the petitioner.

5.The Court below has dismissed the application on the ground that the petitioner being the plaintiff cannot call the defendant as a witness since the 3rd defendant has already been set ex parte.

6.When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that the petitioner died and already steps were taken in the suit to implead the legal representatives and it was allowed and the legal representatives have been brought on record in the suit. Hence, an application was filed before this Court to accept the cause title but however the Registry did not number the said application.

7.In the considered view of this Court, it is not necessary for this Court to implead the legal heirs of the petitioner and further delay the proceedings. The petitioner wants to establish that D2 and D3 have already acted upon the sale agreement and they have also executed a sale deed. These documents have already been marked on the side of the petitioner/plaintiff. In view of the same, it is not necessary to call D3 to speak about the execution of the sale deed pursuant to the sale agreement. It is true that opposite party can be called as a witness but however it will be depend upon the facts of each case. In the

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present case if the petitioner is able to substantiate before the Court that two of the defendants have already acted upon the sale agreement and executed sale deed, that is sufficient enough to substantiate the claim made by the petitioner/plaintiff for the remaining property since it also falls under the same agreement. It is not necessary to call D3 to examine as a witness. Apart from that D3 was also set ex-parte in this case.

8.In the light of the above discussion, this Civil Revision Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

18-11-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

II Additional District Judge, Tindivanam.

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N.ANAND VENKATESH, J.

KP

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