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CRP No. 2977 and 2981 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 2977 and 2981 of 2024 and

CMP.Nos.15940 and 15959 of 2024

In both CRP's

P.S.J.Palanirajan

..Petitioner(s)

Vs

1. R. Selvanayagam @ R. Sundar
2. M.Gunaseelan
3. Manonmani
4. A.Sankaran
5. M.S.Raja
6. Thandayuthapani
7. M/s. Indian Bank

Rep. by its Branch Manager,
Ashok Nagar Branch,
NO.15, First Avenue, Ashok Nagar,
Chennai-600083

..Respondent(s)

Prayer in CRP.No.2977 of 2024 The civil revision petition filed under Article 227 of Constitution of India, praying to set aside the impugned common order dated 05.04.2024 passed in IA No.3 of 2023 in OS No.115/2016, pending on the file of the III Addl. District and Sessions Court, Thiruvallur at Poonamallee with exemplary cost to this Petitioner.



Prayer in CRP.No.2981 of 2024 The civil revision petition filed under Article 227 of Constitution of India, praying to set aside the impugned common order dated 05.04.2024 passed in IA No.2 of 2023 in OS No.115/2016, pending on the file of the III Addl. District and Sessions Court, Thiruvallur at Poonamallee with exemplary cost to this Petitioner.

For Petitioner
in both CRP's :

M.Vimal Bobby Crimson

For Respondents
in both CRP's:

M/s. Adinarayana Rao for R1

COMMON ORDER

These civil revision petitions are filed challenging the order passed by the trial court allowing the application filed by the first respondent/ first defendant seeking to reopen the case and recall DW1.

2. The petitioner herein filed a suit seeking declaration of title and for injunction restraining the defendants from alienating or encumbering the suit property. The petitioner also sought for declaration that various documents dated 07.07.1979, 08.04.1986, 09.07.2008, 07.09.2009 and 11.03.2011 were null and void. The trial in the suit was already over and the same was posted for arguments on the side of the defendants. At this stage, the 1st respondent/1st defendant filed instant applications seeking to re-open the case and recall DW1 and the said applications were allowed by the trial court on condition that the 1st respondent/1st defendant shall pay a cost of Rs.3,000/- to the petitioner.



Aggrieved by the said order, the petitioner has come before this court.

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3. The learned counsel for the petitioner/plaintiff vehemently contended that the first respondent has not given any convincing reason for allowing the application to reopen the case and the trial court, without considering the application in proper manner, simply allowed the same in the guise of giving opportunity to the first respondent. It is also stated by the learned counsel that application for reopen cannot be allowed to fill up lacunae in the case of the defendant.

4. The learned counsel for the contesting first respondent submitted that at the time of trial the original documents were not available with the first defendant. Therefore, the same was not filed. Now only, they got possession of the originals. Therefore, the instant application has been filed and the document sought to be marked by the first defendant is very much vital to decide the issues involved in the suit.

5. It is true that Order XVIII Rule 17 of CPC cannot be invoked to fill up lacunae in the evidence of the parties. However, in the case on hand, the 1st defendant, in his affidavit, has stated that at the time of trial, he possessed only xerox copies and hence, he could not mark the same and now only he was able to get the originals of the documents.



6. In view of the said reasoning, having regard to the nature of the prayer in the suit, this Court feels that yet another opportunity shall be given to the 1st respondent to recall DW1 and produce necessary documents through him.

7. It is seen from the records that the suit was posted for arguments of defendants as early as 24.07.2023 and the instant applications have been filed only thereafter. Taking into consideration the delay on the part of the first defendant, this Court is inclined to enhance the cost to be payable by the first defendant to Rs.10,000/-. It is also seen from the records that the first defendant has not filed any application to receive the documents. He only filed a petition to reopen and recall DW1. The first defendant wants to mark certain new document through DW-1 which were not filed along with the written statement. Therefore, necessarily, he has to file application to receive the documents formally.

8. In view of the above discussion, the civil revision petitions are dismissed, however, with a modification that the first respondent shall pay a cost of Rs.10,000/- to the petitioner within a period of two weeks from the date of receipt of a copy of this order and he shall make a formal application for receiving the documents. The 1st respondent shall also file necessary petition to receive documents within said period. In case, the cost has not been paid or application for reception of documents has not been filed within the time



stipulated, the benefit of impugned order will not be available to the 1st respondent and I.A.Nos.2 and 3 of 2023 will stand dismissed. In case, the conditions are complied in time, the civil revision petitions shall stand dismissed and benefit of impugned order will enure to the 1st respondent.

9. Taking into consideration the suit is of the year 2016 and it is in the advanced stage of hearing the arguments, this Court is inclined to direct the Trial Court to dispose of the suit as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.

22-01-2026

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

To

The III Additional District and Sessions Court,
Thiruvallur, Poonamallee.



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S.SOUNTHAR, J.

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