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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 2661 of 2025

CNR: {HCMA011344012025}

A.Ramesh @ Ramalingam
S/o. K.S.Anandan, No.7, Neeli Appadurai Mudali Street, Ponneri 601 204, Tiruvallur District.

..Petitioner(s)

Vs

1. E.C.Murali
   S/o. Late.Chinnappa Mudali, Eliambedu Village, Ponneri Taluk, Tiruvallur District.

2. Balammal
   W/o. Late.Chinnappa Mudali, Muthamizh Street, A.A.M. Nagar, Upparapalayam Village, Ponneri Taluk,

3. Rajalakshmi
   D/o. late.Chinnappa Mudali, W/o. Vijayakumar, Puduvoyal Village, Gummidipoondi Taluk

4. Narmada
   D/o. Late.Chinnappa Mudali, W/o. Haridoss, Muthamizh Street, A.A.M. Nagar, Upparapalayam Village, Ponneri Taluk,

5. Nagajothi
   D/o. Late.Chinnappa Mudali, w/o. Kalaiselvam, Agaram Village, Via Chinnambedu, Ponneri Taluk,

6. Munusamy Mudali
   S/o. late.Govindaraja Mudali

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Eliambedu Village, Ponneri Taluk, Tiruvallur
Dist.

7. M.Madhavan
   S/o. Munusamy Mudali
   Eliambedu Village, Ponneri Taluk, Tiruvallur
   Dist.

8. M.Hari
   S/o. Munusamy Mudali
   Eliambedu Village, Ponneri Taluk, Tiruvallur
   Dist.

9. J.Krishnamurthy
   S/o. late. Jayarama Mudali
   Eliambedu Village, Ponneri Taluk, Tiruvallur
   Dist.

10. J.Gunasekaran
    S/o. late. Jayarama Mudali
    Eliambedu Village, Ponneri Taluk, Tiruvallur
    Dist.

11. J.Narayanasamy
    S/o. late. Jayarama Mudali
    Eliambedu Village, Ponneri Taluk, Tiruvallur
    Dist.

12. State bank of India
    Repty by its Manager, T.Nagar Branch,
    Chennai 017

..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 26.02.2024, made in I.A. No. 1 of 2023 in O.S No. 1 of 2015 by the Principal Sub-Court, Ponneri.

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For Petitioner(s): Mr.R.Munuswamy

For Respondent(s): Mr.J.Hanusha for R9 to R11
R1, R2, R6, R8 & R10 - NRN
R3, R5, R7 & R12 – No Appearance

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the fair and decreetal order dated 26.02.2024 passed in I.A. No. 1 of 2023 in O.S No. 1 of 2015 on the file of the Principal Sub-Court, Ponneri, wherein the application filed by the petitioner/plaintiff for reopening the evidence on the side of the plaintiff to examine D1 to D5 as witnesses on the side of plaintiff came to be dismissed by the Court below.

2.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of respondents 9 & 11 and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

3.The petitioner is the plaintiff, who filed the suit in O.S.No.1 of 2015, seeking for the relief of declaration and for consequential injunction restraining

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the 12th defendant from in any manner interfering with the peaceful possession and enjoyment of the property and for a permanent injunction restraining the 12th defendant from bringing the suit property for sale.

4.The suit was filed on the ground that the petitioner/plaintiff had purchased the property through a registered Sale Deed dated 17.12.2002 from defendants 1 to 11. While so, an attempt was made by the officials of the Bank to interfere with the possession and enjoyment of the property on the ground that the property had been given as a security by the 1st defendant in his capacity as a guarantor for the loan that was availed by a third party.

5.In the case in hand, defendants 1 to 11 remained ex-parte and did not contest the case. The case reached the stage of trial and ultimately, the defendants side evidence was closed on 19.07.2023. The petitioner wanted to establish that the property was not the exclusive property of the 1st defendant and therefore, the guarantee given by the 1st defendant will not bind the other legal heirs of Chinnappan and that the petitioner had purchased the suit property from all the legal heirs of Chinnappan.

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6.The Court below dismissed the application mainly on the ground that the suit had reached the stage of final arguments and that such an application had been filed at the fag end of the proceedings. Aggrieved by the said order, the present Civil Revision Petition has been filed before this Court.

7.In the case in hand, the effectively contesting respondent is the 12th respondent, who has been served with notice and the name of the 12th respondent has also been printed in the cause list. However, there is no representation either in person or through counsel. It has to be borne in mind that the legal heirs of Chinnappan did not chose to contest the case. Ultimately, it is the title and interest of the petitioner/plaintiff that is at stake, having purchased the property from D1 to D11. Therefore, the petitioner/plaintiff wants to establish that the 1st defendant, by himself, could not have subjected the entire property towards security. This can be done only if any one of the legal heirs is examined as witness. The law does not provide any bar for the plaintiff to call the defendants as witness in this case. In any case, D1 to D5 are not contesting the right and title claimed by the petitioner. Hence, an opportunity must be given to the petitioner to examine one of the legal heir of the deceased Chinnappan.

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8.In the light of the above discussion, the order dated 26.02.2024 passed in I.A. No. 1 of 2023 in O.S No. 1 of 2015 on the file of the Principal Sub-Court, Ponneri, is hereby set aside and there shall be a direction to issue subpoena to the 3rd defendant, who shall be examined as a witness on the side of the petitioner/plaintiff. The Court below, after completing the recording of the evidence, shall dispose of the suit in O.S No. 1 of 2015, within a period of three months from the date of receipt of copy of this order.

9.In the result, this Civil Revision Petition stands allowed in the above terms. No Costs. Consequently, the connected miscellaneous petition is closed.

29-10-2026

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

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To

The Principal Sub-Court, Ponneri.

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N.ANAND VENKATESH, J.

SSR

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