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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP Nos. 5554 & 5594 of 2026

CNR:{HCMA012021042026}

AND

CMP Nos. 24149 & 23991 OF 2026

Case QR

CRP No. 5554 of 2026

1. Vijayalakshmi

2. S. Raja

..Petitioner(s)

Vs

K.Muthammal (Deceased)
1. Valli

2.Lakshmi

3. Selvu

4. Bala

..Respondent(s)

CRP No. 5594 of 2026

Case QR

CNR:{HCMA012021032026}

1. Vijayalakshmi

2. S.Raja

..Petitioner(s)

Vs

K.Muthammal (Deceased)
1. Valli

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2. Lakshmi
3. Selvu
4. Bala

..Respondent(s)

Prayer in CRP No. 5554 of 2026: This revision petition has been filed to set aside the Fair Order and decretal order dated 07.08.2026 passed in IA No.17/2026 in OS No.3967/2013 by the learned III Assistant City Civil Court at Chennai and allow this CRP.

Prayer in **CRP No. 5594 of 2026:** This revision petition has been filed **t**o set aside the fair order and decreetal order dated 07.08.2026 passed in IA No.16/2026 in OS No.3967/2013 by the Learned III Assistant City Civil Court at Chennai and allow this Civil Revision Petition.

For Petitioner in both CRP(s):	Mr.R.Arumugam
For Respondent in both CRP(s):	Mr..G.Chanthiragath for R1 to R4

COMMON ORDER

These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, against the Fair Order and decretal orders dated 07.08.2026 passed in IA Nos.16 & 17 of 2026 in OS No.3967/2013 by the learned III Assistant City Civil Court at Chennai dismissing the applications

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filed by the petitioners/plaintiffs seeking to reopen the evidence and recall D.W.1 for further cross-examination.

2.Heard the learned counsel appearing for both sides.

3.The petitioners are the plaintiffs in O.S.No.3967 of 2013, filed seeking for the relief of partition and separate possession of their 1/7th share and for other consequential reliefs. The suit had reached the stage of cross-examination of the witnesses on the side of the defendants. D.W.1 was examined in chief and was partly cross-examined on 03.09.2025. Thereafter, D.W.1 did not appear before the Court and, on 09.12.2025, the Court below passed an order closing his evidence. Subsequently, D.W.2 and D.W.3 were examined on the side of the defendants and were also cross-examined. The suit thereafter reached the stage of final arguments, and the petitioners/plaintiffs had also advanced their arguments.

4.At that stage, the defendants filed an application seeking to reopen the evidence of D.W.1 for the purpose of marking a document. The said application was allowed. Taking advantage of the reopening of the evidence of D.W.1, the petitioners/plaintiffs filed the applications seeking permission to continue the cross-examination of D.W.1 from the stage at which it was stopped on

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03.09.2025 and also to cross-examine him with regard to the document subsequently marked through him. However, the applications came to be dismissed by the Court below on the ground that they had been filed only to protract the proceedings and that the suit had already reached the stage of final arguments. Aggrieved by the same, the present Civil Revision Petitions have been filed.

5.It is not in dispute that D.W.1 was only partly cross-examined on 03.09.2025 and that he subsequently failed to appear before the Court. When the matter was taken up on 09.12.2025, an adjournment petition was filed on behalf of the defendants stating that D.W.1 was unable to appear before the Court owing to ill health. The Court below, by a detailed order dated 09.12.2025, dismissed the adjournment petition and consequently closed the evidence of D.W.1. Thus, the petitioners/plaintiffs were not afforded an opportunity to complete the cross-examination of D.W.1.

6.In the above circumstances, the petitioners/plaintiffs seek to avail themselves of the opportunity arising out of the subsequent reopening of the evidence of D.W.1 at the instance of the defendants and to continue his cross-examination from the stage at which it was stopped on 03.09.2025. However, the Court below erroneously proceeded on the premise that the cross-

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examination of D.W.1 should be confined only to the document subsequently marked through him after reopening and recalling him. If that were to be so, there would be no justification for denying the petitioners/plaintiffs an opportunity to complete the earlier cross-examination, which had remained incomplete.

7.The Court below has failed to take note of this vital aspect while dismissing the applications. Once the evidence of D.W.1 was reopened at the instance of the defendants, the petitioners/plaintiffs ought to have been afforded an opportunity to continue the cross-examination from the stage at which it was previously stopped, apart from questioning him with regard to the document subsequently marked through him. Therefore, this Court is of the view that the impugned order warrants interference.

8.Accordingly, the order passed by the Court below is set aside and the Civil Revision Petitions are **allowed**, with the following directions:

(i) It is brought to the notice of this Court that the suit is posted for hearing on 05.12.2026. D.W.1 shall be present before the Court below on the said date.

(ii) The petitioners/plaintiffs shall be permitted to continue the cross-examination of D.W.1 from the stage at which it was stopped on 03.09.2025 and shall also be permitted to cross-examine him with regard to the document

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subsequently marked through him.

(iii) The petitioners/plaintiffs shall complete the further cross-examination of D.W.1 on or before 07.12.2026, without seeking any further adjournment.

(iv) The Court below shall thereafter proceed with the matter and dispose of the suit in O.S.No.3967 of 2013, on merits and in accordance with law, within a period of eight weeks from 07.12.2026.

No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

20-11-2026

Neutral Citation: Yes/No

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To

The Learned Judge, III Assistant City Civil Court at Chennai

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N.ANAND VENKATESH J.

DN

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