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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP Nos.4616 & 4627 of 2023

C.M.P.Nos.27534 & 27575 of 2023

In Both C.R.P.s:-

1. Rajammal
2. K.Murugesan

..Petitioner(s)

Vs

K.Nallamuthu

..Respondent(s)

Prayer in C.R.P.No.4616 of 2023:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to set aside the judgment and decree in I.A.No.2 of 2022 in O.S.No.404 of 2018 dated 12.10.2023 on the file of the Additional Sub Court, Namakkal.

Prayer in C.R.P.No.4627 of 2023:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to set aside the judgment and decree in I.A.No.3 of 2022 in O.S.No.404 of 2018 dated 12.10.2023 on the file of the Additional Sub Court, Namakkal.

For Petitioner(s):

Mr.K.Karthikeyan(In both C.R.P.'s)

For Respondent(s):

Mr.S.Saravanakumar for

M/s.I.Abrar MD Abdullah(In C.R.P.No.4627 of 2023)

COMMON ORDER

The Civil Revision Petitions are filed challenging the order passed by the trial Court allowing the applications filed by the respondent / plaintiff seeking to reopen the case and recall P.W.1.



2.The respondent herein filed a suit for partition on the assertion that suit properties were ancestral properties belonging to the father of the plaintiff and second defendant namely Kuppana Gounder. The suit was resisted by the petitioners by raising various defence. It was the case of the petitioners that serial No.23 in item No.2 of the suit property was separate property. The trial in the suit is already over and the matter is posted for arguments. At this stage, instant applications have been filed by the respondent seeking to reopen and recall and the same were allowed by the trial by imposing the cost of Rs.1000/-. Aggrieved by the same, the petitioners have come before this Court.

3.The learned counsel appearing for the petitioners would submit after trial is over, the instant applications have been filed just to drag on the proceedings without any reasonable cause. Therefore, the trial Court committed serious error in allowing the applications.

4.The learned counsel for the respondent would submit that the respondent got a vital document to prove his case. Therefore, the instant applications have been filed and the same was rightly allowed by the trial Court.

5.Heard the learned counsels on either side and perused the materials available on record.



6.A perusal of the affidavit filed by the respondent in support of the petitions seeking to reopen and recall would indicate he recently found a vital document to prove the suit property described as serial No.23 in 2nd item as an ancestral property and in view of the controversy involved in the suit property with regard to the character of that property, the said document is essential to prove the case of the respondent.

7.A perusal of the pleadings of the parties would indicate there is a controversy with regard to the character of the property. Now the respondent / plaintiff said to have got a new document to prove that property described as serial No.23 in 2nd item is the ancestral property. Therefore, the said document is material one to decide the main controversy involved in the suit. Hence, the trial Court rightly allowed the application. However, taking into consideration the delay on the part of the respondent in filing applications seeking to reopen the case and recall P.W.1, this Court feels the cost imposed by the trial Court should be enhanced. Accordingly, the Civil Revision Petitions stand disposed of by confirming the order passed by the trial Court in I.A.Nos.2 & 3 of 2022 in O.S.No.404 of 2018, however, with a modification that the respondent shall pay cost of Rs.3000/- each of the Civil Revision Petitions. The cost shall be paid within a period of two weeks from the date of receipt of copy of this order. In case of non-compliance, I.A.Nos.2 and 3 of 2022 in O.S.No.404 of 2018 will



stand automatically dismissed. On payment of cost as directed by this Court, the

Civil Revision Petitions will stand automatically dismissed. No costs.

Consequently, connected Civil Miscellaneous Petitions are closed.

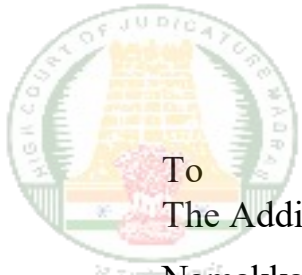
23-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To
The Additional Subordinate Court,
Namakkal

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S.SOUNTHAR, J.

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