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C.R.P.Nos.6407, 6425 and 6426 of 2025
and C.M.P.Nos.31676, 31677 and 31793 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2026

PRONOUNCED ON : 26.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.Nos.6407, 6425 and 6426 of 2025
and C.M.P.Nos.31676, 31677 and 31793 of 2025

S.T.G.Gangadharan

... Petitioner (in all CRPs)

vs.

1.E.L.S.Jayabalan

2.Mohamed Riyas

3.S.Natarajan

4.Latha Ashok

... Respondents (in all CRPs)

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.Nos.7, 8 and 9 of 2025 in O.S.No.474 of 2010, dated 24.11.2025 on the file of the District Munsif, Ambattur.

For Petitioner : Mr.B.Vijay (in all CRPs)

For R3 : Mr.S.Varanesh (in all CRPs)

For R4 : Mr.C.B.Muralikrishnan
(in all CRPs)

For R1 and R2 : Dismissed vide Court order
dated 06.01.2026.



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COMMON ORDER

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These Civil Revision Petitions are filed challenging the order passed by the District Munsif, Ambattur in I.A.Nos.7, 8 and 9 of 2025 in O.S.No.474 of 2010, dated 24.11.2025 dismissing the applications filed by the petitioner seeking to reopen the case, recall PW.1 and to receive certain documents relating to suit in O.S.No.76 of 2017 between the petitioner and some of the legal heirs of the M.Subburaya Naicker, the original owner of the suit property.

2. The petitioner herein filed a suit in O.S.No.474 of 2010 seeking declaration that Sale Deed executed by 1st defendant in favour of 2nd defendant dated 05.09.2005 and the Sale Deed executed by 1st defendant in favour of 3rd defendant dated 05.09.2005 were null and void and for consequential relief.

3. It is the case of the petitioner that the suit property was originally owned by M.Subburaya Naicker and he died on 13.10.1997 leaving behind his 4 children namely S.Masilamani, R.Narayani, K.Kamala and

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S.Vasudevan. The legal heirs of M.Subburaya Naicker sold the suit property

to the petitioner/plaintiff on 03.08.2005 and from that date onwards, he has been in possession and enjoyment of the suit property. During the year 2010, the defendants 2 and 3 claimed certain right over the suit property based on documents executed by 1st defendant and hence, the instant suit was filed by the petitioner/plaintiff. It is further pleaded by the petitioner that original owner of the suit property M.Subburaya Naicker executed a Power of Attorney in favour of the 1st respondent in the year 1995 and he died on 13.10.1997. Thereafter, the impugned Sale Deeds were executed by Power Agent in favour of defendants 2 and 3, therefore, the same were not valid.

4. The trial in the suit is already over and the same is posted for arguments. At this stage, the petitioner filed instant applications seeking to open the case, recall PW.1 and to receive certain documents relating to earlier litigation between the petitioner and the some of the legal heirs of original owner M.Subburaya Naicker. In the affidavit filed in support of these applications, it was stated by the petitioner that respondent raised certain dispute with regard to the Legal Heirship of M.Subburaya Naicker and the documents relating to suit filed by the legal heirs of M.Subburaya



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Naicker against the petitioner in O.S.No.76 of 2017, would be relevant to

decide the present case. It was also stated that due to his illness, he completely forgotten about the suit filed by legal heirs against himself and document relating to the said suit were not handed over to the counsel, hence, it could not be marked when PW.1 was examined.

5. These applications were resisted by the respondents on the ground that the dispute regarding legal heirship was raised by the 4th defendant in his written statement filed as early as 16.11.2015. Further, during cross examination of PW.1 also, questions were put regarding the dispute as to legal heirs of M.Subburaya Naicker and therefore, the present applications filed by the petitioner are only to fill up the *lacuna* in evidence. The Trial Court, by impugned order dismissed all the applications and aggrieved by the same, the petitioner has come before this Court.

6. The learned counsel appearing for the petitioner would submit that the legal heirs of M.Subburaya Naicker filed a suit in O.S.No.76 of 2017 against the petitioner to set aside the Sale Deed in favour of the petitioner dated 03.08.2005 and the said suit was rejected by invoking Order 7 Rule 11 of the Code of Civil Procedure. The documents relating to the above suit are



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very much relevant to decide the controversy involved in the present suit.

Therefore, in the interest of justice, the Trial Court ought to have allowed the applications filed by the petitioner.

7. The learned counsel appearing for the contesting respondents by taking this Court to the written statement of the 4th defendant and also cross examination of PW.1 would submit that the dispute regarding the legal heirs of M.Subburaya Naicker was raised earlier by the defendants in the pleadings as well as during cross examination of PW.1 and therefore, the present applications filed by the petitioner is an attempt to fill up the *lacuna* in evidence. It was also pointed out that the Legal Heirship Certificate of Duraikannammal, wife of M.Subburaya Naicker was marked with objections as Ex.A6. In support of his contention, the learned counsel relied on the judgment of the Apex Court in ***Bachhaj Nahar vs. Nilima Mandal*** reported in ***(2008) 17 SCC 491*** for the proposition that there cannot be any evidence without pleadings. It is stated that there was no plea raised by the petitioner regarding the earlier litigation between him and the legal representatives of M.Subburaya Naicker. Therefore, the documents relating to the said litigation cannot be pressed into service.



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8. A perusal of the pleadings of the parties and the cross examination

of PW.1 would clearly indicate that there is a dispute with regard to the legal heirs of original owner M.Subburaya Naicker. The plaintiff claims that he purchased the property from the original owner M.Subburaya Naicker. Therefore, it is incumbent on him to establish his case that he purchased the suit property from the original legal heirs of M.Subburaya Naicker. According to the plaintiff, the legal heirs of M.Subburaya Naicker filed the suit against him challenging his title document in the year 2017 and the documents relating to the said case would help the Court to decide the controversy involved in the suit. It is seen from the typed-set of papers filed by the parties, the cross examination of PW.1 was done during January-2017 to November-2017. The suit in O.S.No.76 of 2017 was presented on 31.01.2017 and the same was rejected on 22.08.2023. Therefore, the judgment and decree which is sought to be marked, came into existence only in the year 2023.

9. When the suit itself was filed in the year 2017, we cannot expect the plaintiff to refer to the 2017 suit in the present plaint, which was filed in the year 2010. Therefore, contention that there was no pleading in the



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present plaint regarding the litigation between the petitioner and the legal heirs of M.Subburaya Naicker cannot be accepted. As mentioned earlier, the suit between the petitioner and the legal heirs of M.Subburaya Naicker culminated only in the year 2023, therefore, we cannot find fault with the petitioner for his failure to produce the document, when PW.1 was examined in chief in the year 2017.

10. It was also submitted on behalf of the contesting respondents that the suit between the petitioner and the legal heirs of M.Subburaya Naicker was a collusive one and the same will not advance the case of the petitioner. If the document is received and marked as an exhibit, the respondents are entitled to cross examine PW.1 with respect to all the aspects relating to the document and the respondents are also entitled to advance argument regarding the usefulness of the document to decide the present *lis*.

11. The relevancy of the document can be decided at the time of final disposal and the same cannot be decided at this stage. Having regard to the fact that there is a serious title dispute between the petitioner and the respondents, this Court feels an opportunity shall be given to the petitioner



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to recall PW.1 for the purpose of marking the document relating to litigation

between the petitioner and the legal heirs of original owner M.Subburaya Naicker. Accordingly, the impugned common order passed by the District Munsif, Ambattur in I.A.Nos.7, 8 and 9 of 2025 in O.S.No.474 of 2010, dated 24.11.2025 are set aside.

12. In the result, the Civil Revision Petitions are allowed. No costs.

Consequently, the connected civil miscellaneous petitions are closed.

26.02.2026

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
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To

The District Munsif,
Ambattur.



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S.SOUNTHAR, J.

dm

Pre-delivery common order made in
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