



WEB COPY

CRP No. 3199 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No. 3199 of 2026 and
CMP No.13990 of 2026**

S.Subramaniam, S/o. Late. Sengoda Gounder
Annapettaiyan Thottam,
P.K.Pazhaiyur P.K.Pudhur Post,
Kannapalli Village, Anthiyur Taluk
Erode Dist.

..Petitioner(s)

Vs

S.Sivabakkiyam, S/o. Subramaniam
Athayammal Thottam,
Chennampatty Post, Chennampatty Village
Anthiyur Taluk, Erode Dist.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order made in I.A.No. 11 of 2024 in OS No. 200 of 2014 dated 07.04.2026 on the file of the Subordinate Judge, Bhavani.

For Petitioner(s):

Mr. P.Vetrivel

For Respondent(s):

Mr. B.Kumarasamy

ORDER

This civil revision petition has been filed to set aside the fair and final order made in I.A.No. 11 of 2024 in OS No. 200 of 2014 dated 07.04.2026 on the file of the Subordinate Judge, Bhavani.



2. The petitioner herein is the 9th defendant in the above said suit, filed by the respondent/plaintiff seeking partition. The suit was decreed exparte by the Trial Court. The petitioner has filed an application in I.A.No.11 of 2024 to condone the delay in filing an application to set aside the above said exparte decree and the same was dismissed. Challenging the above said order, the petitioner/9th defendant has filed the present civil revision petition.

3. Heard Mr.P.Vetrivel, learned counsel for the petitioner and Mr.B.Kumarasamy, learned counsel for the respondent.

4. The learned counsel for the petitioner states that the application in I.A.No.11 of 2024 in O.S.No.200 of 2014 has been erroneously dismissed by the Trial Court, without noticing that the decree had been passed exparte and also subsequent to remand by the first appellate court. The learned counsel also states that originally the suit was decreed granting 1/12 share to the plaintiff and on appeal filed by her, the matter was remitted to the Trial Court and subsequent to the remand, the Trial Court, without hearing the petitioner, has proceeded and passed the preliminary decree granting 1/6th share to the respondent/plaintiff. The learned counsel therefore requests that the erroneous declaration of share has to be necessarily set aside and fair opportunity to be given to the petitioner to contest the preliminary decree on merits.



5. The learned counsel for the respondents, however, states that the petitioner never chosen to appear at any point of time before the court and even after the matter was remanded to the trial court, by the first appellate court in the presence of the petitioner, the petitioner stayed away from the proceedings before the Trial Court, which resulted in the preliminary decree being passed. However, the learned counsel for the respondent fairly concedes that the petitioner's right to challenge the preliminary decree cannot be taken away and suitable direction may be issued in this regard, protecting the interest of the respondent and at the same time, addressing the grievance of the petitioner.

6. In the light of the above, this civil revision petition is disposed of with the following directions.

i) The order passed in I.A.No.11 of 2024 in O.S.No.200 of 2014, dated 07.04.2026 is confirmed.

ii) the petitioner is at liberty to prefer a statutory appeal before the first appellate court, challenging the preliminary decree passed by the Trial Court in O.S.No.200 of 2014, dated 14.08.2024 on the file of Subordinate Judge, Bhavani, Erode District, within a period of eight weeks from the date of receipt of copy of the order.

iii) In the event of such appeal being filed by the petitioner, within the stipulated time mentioned above, without putting limitation against the petitioner, the appeal shall be entertained and taken up for final hearing, after



affording opportunity to the petitioner as well as the respondent/plaintiff and if necessary, to the other defendants in the suit.

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iv) The final decree proceedings in O.S.No.200 of 2014 stand stayed for a period twelve (12) weeks from the date of receipt of copy of order to enable the petitioner to move the appellate court for suitable interim orders, within a period of 4 weeks from the date of filing of the appeal.

v) Considering the fact that the suit is of the year 2014 and matter has already been remitted to the Trial Court once, the first appellate court is directed to dispose of the appeal in the manner, as indicated above, within a period of four months from the date of filing of the appeal, on merits and in accordance with law.

7. With the above directions, this civil revision petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

10-07-2026

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

MST

To

The Subordinate Judge, Bhavani.



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P.B.BALAJI, J.

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