



C.R.P.No.3136 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2026

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.No.3136 of 2025

&

C.M.P.No.17492 of 2025

R.Kanagaraj

..Petitioner

Vs.

1. Sathamani

2. R.Rajeshwaran

..Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 23.04.2025 made in I.A.No.02 of 2024 in O.S.No.77 of 2021 on the file of the Sub Court, Udumalpet by allowing this civil revision petition.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.N.Umapathi for R1
Notice not ready for R2

ORDER

This civil revision petition has been filed challenging the impugned order dated 23.04.2025 passed by the Sub Court, Udumalpet, in I.A.No.02 of 2024 in O.S.No.77 of 2021.



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2. In the aforesaid order, the application filed by the first respondent / plaintiff seeking to amend the plaint to include the relief of declaration to declare that the settlement deeds executed in favour of the petitioner / first defendant as null and void, has been allowed.

3. The leaned counsel for the petitioner would submit that the trial Court has committed an error in allowing the amendment application filed by the first respondent / plaintiff. He would submit that the application is barred by limitation and the first respondent / plaintiff has not satisfied the requirements of showing due diligence for not filing the application earlier. He also drew the attention of this Court to the affidavit filed by the first respondent / plaintiff in support of I.A.No.2 of 2024 and would submit that the first respondent's application is barred by limitation as the written statement was filed by the petitioner / first defendant as early as on 25.08.2021 itself wherein a specific plea was raised by the petitioner / first defendant about the execution of the settlement deeds in favour of the petitioner / first defendant. He would also submit that even in the cross-examination of the first respondent / plaintiff, the first respondent himself



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admitted that he was aware of the execution of the settlement deeds in favour of the petitioner / first defendant during the death of the first respondent / plaintiff's father. The learned counsel for the petitioner also drew the attention of this Court to a judgment of a learned Single Judge of this Court dated 27.01.2010 in the case of ***S.Rajendran Vs. K.Kannan*** reported in ***MANU/TN/4456/2010*** and would submit that as seen from the said decision, the first respondent / plaintiff will necessarily have to satisfy the test of due diligence if the petitioner is seeking for amending the suit prayer during the trial. He would submit that having not satisfied the said test, the trial Court ought not to have entertained the application filed by the first respondent / plaintiff.

4. On the other hand, the learned counsel for the first respondent / plaintiff would reiterate the contents of the impugned order and would submit that the trial Court has rightly allowed the application filed by the first respondent / plaintiff seeking to amend the suit prayer, since the first respondent / plaintiff in the original plaint did not seek for a declaration to declare the settlement deeds executed in favour of the petitioner / first defendant as null and void.



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Discussion:

5. Originally the suit was filed for partition and separate possession. Admittedly, the petitioner and the first respondent in this civil revision petition are brother and sister respectively. The settlement deeds were executed in favour of the petitioner / first defendant in the year 2016 and the petitioner / first defendant filed his written statement on 25.08.2021. The cross-examination of the first respondent / plaintiff took place on 06.02.2024. In the cross-examination, a specific question was put to the first respondent / plaintiff with regard to the settlement deeds executed in favour of the petitioner / first defendant and an answer also was given by the first respondent / plaintiff to the same by stating that the first respondent / plaintiff has taken an inconsistent stand.

6. The trial Court through the impugned order has allowed the application to avoid multiplicity of proceedings. Though the reasoning given by the trial Court for allowing the amendment application may be incorrect, the question of interference by this Court through this civil revision petition



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is not warranted, as it will only delay the disposal of the suit. The allowing of the amendment application by the trial Court does not defeat the right of the petitioner / first defendant to contest the main suit based on the defences raised by him in the written statement, which includes his contention that the two settlement deeds that have already been executed in his favour entitle him to claim absolute ownership of the suit schedule property.

7. When the rights of the petitioner / first defendant to defend the main suit have not been defeated by the passing of the impugned order and in the event, this Court interferes with the impugned order, it will only result in delaying the disposal of the suit. Therefore, this Court is not inclined to interfere with the impugned order in the interest of justice and for an early disposal of the suit. This Court has also taken into consideration of the fact that the dispute is between two siblings namely, the petitioner who is the brother and the first respondent who is the sister. Instead of contesting the suit based on the defence raised by him through his written statement, the petitioner has filed this civil revision petition, which has only delayed the disposal of the suit.



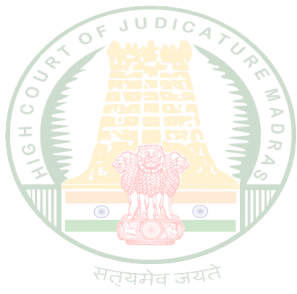
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8. The proposition of law laid down by the Hon'ble Supreme Court is reflected in the decision relied upon by the learned counsel for the petitioner referred to *supra* would have a bearing before the trial Court when I.A.No.2 of 2024 was taken up for consideration by the trial Court which resulted in the impugned order. Having allowed the interlocutory application by allowing the first respondent / plaintiff to amend the suit prayer, this Court is not inclined to interfere with the impugned order as it will only result in further delay of the disposal of the suit.

9. The interest of the petitioner will be protected if a direction is issued to the trial Court to consider the objections that have been raised before this Court through the civil revision petition when the main suit is taken up for consideration by the trial Court, instead of this Court considering the merits of the impugned order in this civil revision petition.

10. For the foregoing reasons, this Court is not interfering with the impugned order. This Civil Revision Petition is disposed of by granting liberty to the petitioner / first defendant to file an additional written



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statement pursuant to the impugned order and take the plea of limitation in the said additional written statement. The trial Court is also directed to frame additional issues after the petitioner files his additional written statement and after framing the additional issues, the first respondent / plaintiff is permitted to adduce further oral evidence. The petitioner / first defendant is also permitted to cross-examine the said witness and the petitioner / first defendant is also permitted to let in oral evidence. The trial Court is directed to dispose of the suit within a period of eight months from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

13.07.2026

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

The Sub Court, Udumalpet.

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ABDUL QUDDHOSE, J.

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