



C.R.P.No.4837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.4837 of 2023
and CMP.No.25228 of 2023

Thangavelu

... Petitioner

VS.

1.S.Ramani (died)
2.Akila Mahesh
3.Abinaya Mahesh
4.Aishwarya Mahesh
5.K.Ramesh
6.Padma Ramani
7.Subramanian

(Respondents 6 and 7 are brought on record as Lrs of the deceased R-1
viz., S.Ramani vide Court order dated 28.08.2025 made in
CMP.Nos.17558, 17560 and 17563 of 2025)

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 13.03.2023 made memo in O.S.No.1320 of 2019 on the file of the XXI Additional Judge, City Civil Court, Allikulam and consequently all the memo.

For Petitioner : Mr.U.Karunakaran



C.R.P.No.4837 of 2023

ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court, rejecting the memo filed by the petitioner/5th respondent, seeking permission to pay the balance Court fee in the counter claim.

2. The first respondent filed a suit against the petitioner and others seeking declaration that he was absolute owner of the suit schedule property based on the construction agreement dated 29.07.2008 and registered sale deed dated 11.12.2009 and also for recovery of possession. He also sought for declaration that sale deeds dated 20.03.2009 and 18.06.2009 were null and void and other incidental reliefs.

3. The petitioner herein was arrayed as 5th respondent in the suit. Initially all the defendants were set ex-parte and on the application filed by the petitioner/ 5th defendant, the ex-parte order was set aside. The petitioner filed a written statement along with counter claim seeking declaration that the construction agreement dated 29.07.2008 executed in favour of plaintiff was null and void. He also sought for a declaration that the sale deed dated 11.12.2009 executed in favour of plaintiff was also null and void. Since the petitioner failed to pay Court fee on the counter claim, the trial Court has



C.R.P.No.4837 of 2023

granted time till 23.03.2022 for payment of Deficit Court fee. The said time limit was subsequently extended till 05.04.2022. Even after extension of time, the petitioner failed to pay required Court fee and therefore, the counter claim was rejected and the suit was posted for trial. At this stage, the petitioner filed a memo, seeking permission to pay Court fee. The said memo which was rejected by the trial Court. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that due to inadvertence, the petitioner failed to pay requisite Court fee for the counter claim and in the interest of justice, the time fixed by this Court for payment of Court fee may be extended and the petitioner may be permitted to pay required Court fee.

5. It is seen from the records, the first respondent herein filed a suit for declaration of his title based on construction agreement dated 29.07.2008 and sale deed dated 11.12.2009. The validity of the construction agreement and the sale deed have to be gone into in the trial by the trial Court necessarily. In the counter claim, the petitioner sought for declaration that construction agreement dated 29.07.2008 and sale deed dated 11.12.2009



C.R.P.No.4837 of 2023

were null and void. Even in the absence of counter claim, necessarily, the Court has to decide the validity of the construction agreement dated 29.07.2008 and sale deed dated 11.12.2009 in view of the main prayer sought for in the suit. In such circumstances, the rejection of the counter claim will not cause any prejudice to the petitioner. In any event, in spite of sufficient opportunity, the petitioner failed to pay the Court fee and therefore counter claim was rejected. Now after eight months, the present memo has been filed by the petitioner seeking permission to pay the Court fee, even without proper application. First of all, the reason stated for extension of time has not been supported by sworn statement. Further the petitioner has not given any convincing reason for extending time.

6. In view of the same, do not find any error in the impugned order passed by the trial Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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C.R.P.No.4837 of 2023

To

The XXI Additional Judge, City Civil Court,
Allikulam.



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C.R.P.No.4837 of 2023

S.SOUNTHAR, J.

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C.R.P.No.4837 of 2023

05.01.2026