



WEB COPY

CRP No.4670 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

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

**CRP No.4670 of 2025
and CMP. No.23685 of 2025**

R.Sathiyapriya

..Petitioner(s)

Vs

1.K.Chinnammal
2.P.Duraisamy

..Respondent(s)

PRAYER: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the return dismissal docket order dated 15.07.2025 passed in I.A. S.R.No.2562 of 2025 in O.S. No.504 of 2023 on the file of the learned Subordinate Judge of Sathiyamangalam with direction to number the unnumbered I.A. in O.S. No.504 of 2023 on the file of the Subordinate Judge of Sathyamangalam.

For Petitioner(s):	Ms.M.V.Saranya
For Respondent(s):	Mr.R.Vijayan for R1
	No Appearance for R2

ORDER

The revision petitioner is the daughter of the defendant in a suit for partition in O.S. No.504 of 2023. The petitioner sought to set aside the exparte preliminary decree granted in favour of the first respondent/plaintiff, her paternal aunt and also for impleading herself in the suit for partition. The learned counsel for the petitioner states that the first respondent/plaintiff was already given property in lieu of her share even in the year 1997 and she was



not entitled to seek for partition in the first place. He would further contend that her own father has taken sides of the respondent/plaintiff and has not chosen to contest the suit for partition, which resulted in the exparte decree.

2. It is the further contention of the learned counsel for the petitioner that since the petitioner was unmarried at the time of introduction of Section 29-A to the Hindu Succession Act, 1956 by State Amendment, the petitioner has also become a coparcener and has a right by birth. She therefore states that the petitioner is entitled to be impleaded in the suit and seek a declaration of a separate share in the suit property.

3. Per contra, learned counsel appearing for the first respondent/plaintiff states that the petitioner can have a right to sue and seek for partition as against her father and not against the respondent/plaintiff and the learned counsel also denies the fact that the respondent/plaintiff was given properties in lieu of her share in the suit properties, and therefore contends that the suit for partition itself was not maintainable. He would further contend that such contention cannot be raised by the present petitioner who is claiming under the defendant alone, who is very much alive. He therefore prays for dismissal of the revision petition contending that the Trial Court has rightly dismissed the impleading petition.



4. Though by docket order the learned Subordinate Judge, Sathyamangalam, has returned both the applications, one for impleading the petitioner and the other to set aside the exparte preliminary decree, only one revision has been filed.

5. Be that as it may, as rightly contended by the learned counsel for the respondent/plaintiff, if at all the petitioner claims under the defendant as a coparcener by birth, it is always open to the petitioner to work out her rights against the defendant and her rights would not come in the way of the respondent/plaintiff to seek for declaration and separate entitlement of the respondent/plaintiff which has been admittedly done by way of preliminary decree. I do not find any perversity or error committed by the Trial Court in returning the applications. However, the Trial Court has erroneously recorded the status of the petitioner as a subsequent purchaser, whereas she claims as a coparcener by birth.

6. However, I do not see any necessity to set aside the exparte preliminary decree. Admittedly, today as on date, no final decree application has been filed even by the respondent/plaintiff. In such view of the matter, it shall be open to the petitioner to either seek for declaration of her independent share by seeking a preliminary decree to be passed in her favour in the very same suit on payment of appropriate Court fee, subject to the objections of the

**P.B.BALAJI, J.,**

respondent/plaintiff herein or alternatively, file an independent suit for partition against her father, the defendant in O.S. No.504 of 2023 and the dismissal of her application for impleadment and set aside the exparte preliminary decree shall not come in the way of the petitioners right to seek for partition.

7. This Civil Revision Petition is dismissed with the above terms. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

13-08-2026

RKP
Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
To
The Subordinate Judge of Sathiyamangalam.

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