



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

CORAM

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

**CRP Nos. 5327 & 5328 of 2025
and CMP.Nos.26810 & 26812 of 2025**

K.Mylsamy
S/o Karuppanna Gounder, S.V Thottam,
Kangeyampalayam, Sulur Tk, Coimbatore Dt.

..Petitioner in both
petitions.

Vs

K.Ramasamy
S/o Karuppanna Gounder, S.V Thottam,
Kangeyampalayam, Sulur Tk, Coimbatore Dt.

..Respondent in both
petitions.

Prayer in CRP.No.5327 of 2025: This Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decretal order in I.A No. 8 of 2024 in I.A No. 39 of 2008 in O.S. No. 279 of 2000 on the file of the III Additional Subordinate Judge of Coimbatore.

Prayer in CRP.No.5328 of 2025: This Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decretal order in I.A No. 7 of 2024 in I.A No. 39 of 2008 in O.S. No. 279 of 2000 on the file of the III Additional Subordinate Judge of Coimbatore.

In both petitions:

For Petitioner:

Mr.S.Gunaseelan

For Respondent:

Mr. Ramasamy (party-in-person)



COMMON ORDER

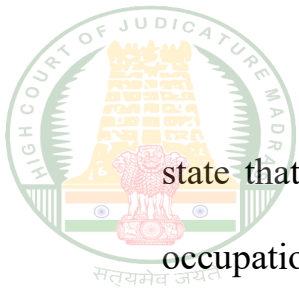
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These Civil Revision Petitions have been filed seeking to set aside the fair and decreetal order in IA.Nos.7 & 8 of 2024 in I.A.No.39 of 2008 in O.S.No.279 of 2000 on the file of the III Additional Subordinate Judge, Coimbatore.

2. Heard, Mr.S.Gunaseelan, learned counsel for the revision petitioner, and Mr.K. Ramasamy, the respondent appearing as a party-in-person.

3. The present civil revision petitions are filed challenging the final decree proceedings in a suit for partition. The petitioner and the respondent are admittedly brothers, each being entitled to an equal one-half share in the suit properties, which are the subject matter of the partition.

4. The only contention of the petitioner is that the Advocate Commissioner, while effecting an equal division, inadvertently marked the portion under the occupation of the petitioner to be allotted to the respondent, and vice versa. Further, according to Mr.S.Gunaseelan, the petitioner and the respondent are already in separate portion and enjoyment of an extent of 97½ cents each, and in the said lands they have already installed borewells and obtained electricity connections in their individual names. He would, therefore,



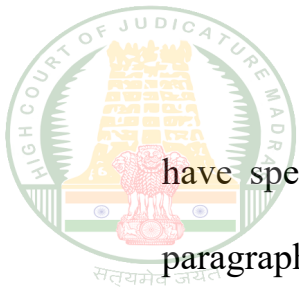
state that it would be inequitable to now allot the portion which is under the occupation of the respondent to the petitioner, and vice versa.

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4.1. Mr. S.Gunaseelan, learned counsel for the petitioner would further contend that apart from the 97½ cents each, there is a further extent of 2 acres and 51 cents, in which also the petitioner and the respondent are entitled to one-half share each. Apart from the suit properties, there is an additional extent of 7 acres of 32 cents, which is not the subject matter of the suit for partition, since third-party family members are also entitled to shares therein. Insofar as the remaining extents, apart from the 97 ½ cents, the petitioner has no objection to take any half share.

5. The party-in-person Mr.K.Ramasamy, would contend that for the last twenty five years, he has been running from pillar to post to get his half-share in the property. He would further state that the petitioner went to the extent of even denying the very entitlement of the respondent to any share in the suit properties. Therefore, it is not now open to the petitioner to fall back on the original oral division in respect of the 97½ cents each, which has admittedly been in the separate possession and enjoyment of the petitioner and the respondent.

6. I have carefully considered the arguments advanced on either side. I



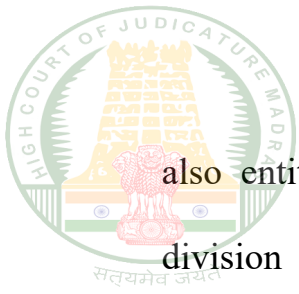
have specifically gone through the report of the Advocate Commissioner at paragraph 7, the learned Advocate Commissioner has stated as follows:

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“7.I therefore submit that I have caused division of the suit properties into two equal shares by metes and bounds as per plan I and II. As mentioned above, these parties/sharers may be allotted either green or blue washed portion towards their respective shares in the suit property.”

7. Firstly, I do not find any specific reasons as to why the Commissioner caused the division in such a particular fashion as set out in plans I and II. The case projected by the petitioner is that though the Commissioner has correctly earmarked the two half-portions, he inadvertently interchanged the green and blue washed portions, which has resulted in the necessity to swap properties which are already in the separate occupation of the petitioner and the respondent.

8. In order to resolve this issue, it would be proper for the parties to examine the Commissioner before the Trial Court. Both the petitioner and the respondent are entitle to cross-examine the Commissioner with regard to the report filed. Thereupon, the Trial Court shall decide the entitlement of the parties insofar as the 97 ½ cents each, comprised in Survey Nos.284/4A, 289/1A & 289/2B. In respect of the remaining suit properties, the parties are



also entitled to confront the Commissioner with the findings regarding the division caused in respect of the remaining suit properties as well. After examination of the Commissioner, the parties shall be entitled to advance fresh arguments, and thereupon, the Trial Court shall pass final orders in IA.No.7 & 8 of 2024. The exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

9. Accordingly, the impugned order is set aside, and the matter is remanded back to the Trial Court for fresh consideration in line with the directions above.

10. In view of the above, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15-07-2026

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

MPA
To

1. The III Additional Subordinate Judge of Coimbatore.
2. The Section Officer, VR Section, High Court, Madras.



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CRP Nos. 5327 & 5328 of 2



P.B.BALAJI, J.

MPA

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