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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 231 of 2026 and

CMP No.1019 of 2026

Balamurugan
S/o.Varatharaja Gounder,
Thathapuram Village,
Tindivanam Taluk,

..Petitioner(s)

Vs

1. Bala Imaya Varamaban
S/o.Balakrishnan,
No.68, Thathapuram Village,
Tindivanam Taluk

2. Balasubramaniyan
S/o.Varatharaja gounder,
NO.50, Perumal Kovil Veethi
Thathapuram Village,
Tindivanam Taluk

3. Geethalakshmi. W/o.Nagenthiran,
Thamal Village and Post,
Kanchipuram Taluk and District

4. Sarasvathi, W/o.Balaji,
Murungampakkam
Tindivanam, Tindivanam Taluk

5. Bala Gnasammantham
No.7/4, Kanniyappan street,
Periyar Pathai, Sulaimedu, Chennai

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6. Bala Thirunavukarasu
S/o.Balakrishnan,
No.71/7/4 Kanniyappan Street,
Periyar Pathai, Sulaimedu
Chennai

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to allow this CRP by setting aside the order and decretal order passed in IA No.335/2024 in OS No.50/2019 dated 14.10.2025 passed by the Learned Additional Sub Court Thindivanam

For Petitioner(s): Mr. K.Karuppaiyamooppanar

ORDER

This Civil Revision Petition is filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioner/2nd defendant seeking rejection of plaint.

2. The first respondent herein/plaintiff filed a suit in O.S.No.50 of 2019 for partition against the petitioner and other respondents. Issues in the suit was framed as early as on 12.02.2022. The petitioner/2nd defendant filed the instant application seeking rejection of plaint, when the suit was posted for cross examination PW1.

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3. It is the case of the petitioner that earlier, the first respondent/plaintiff filed a suit in O.S.No.248 of 2009 for partition on the file of District Munsif, Tindivanam and the same was decreed. The said judgment was challenged by the petitioner in an appeal in A.S.No.25 of 2012 and the same was allowed in respect of Item Nos.1, 2, 3, 5,6 7 and 8 of the suit properties. The respondent/ plaintiff, without challenging the said judgment by way of second appeal, filed the instant suit by including some other properties on different pleadings and therefore, the instant suit is barred by rejudicata. It is further stated by him that non inclusion of the properties in the earlier suit and inclusion of the said properties in the instant suit is barred by Order II Rule 2 of CPC.

4. It is settled law that while considering the petition for rejection of plaint, the court can consider only the plaint averments and the plaint documents. The court is not entitled to rely on any documents produced on the side of the defendants, while considering a petition for rejection of plaint. To decide the question of resjudicata and the bar under Order II Rule 2 of CPC, the court has to consider the pleadings of the respective parties in the earlier litigation. Therefore, the question of resjudicata and the bar under Order II Rule 2 of CPC can be considered only at the time of final disposal, based on the evidence to be let in by both the parties. Further, already, issue has been framed with regard to the question of resjudicata as early as on 12.02.2024. Thereafter, trial has commenced and the matter has been posted for cross examination of

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PW1. After getting several adjournments, the instant application has been filed by the petitioner/2nd defendant. Since the issues raised by the petitioner require evidence, the same cannot be the basis for rejection of plaint. The Trial Court rightly appreciated the legal position and dismissed the application. I do not find any error in the impugned order to interfere the same.

5. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

22-01-2026

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

MST

To

The Additional Sub Judge, Thindivanam.

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S.SOUNTHAR, J.

MST

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