



*C.R.P.(NPD).No.2722 of 2021*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

**C.R.P.(NPD).No.2722 of 2021**

**and**

**C.M.P.No.19925 of 2021**

J.V.Suryanarayana

.. Petitioner

[Cause title accepted vide Court order  
dated 22.11.2021 made in  
CMP.No.19079 of 2021 in  
CRP.Sr.No.87569 of 2021.]

Vs.

Saroja (died)

1.A.Vijayabharahi

S.Ravindran (died)

2.R.Sripriya

3.R.Ashwath

4.R.Harsitha (Minor)

Minor represented by her natural guardian, her mother R.Sripriya

5.G.Prema

1/7



C.R.P.(NPD).No.2722 of 2021

6.S.Kasturi

7.D.Sathya

8.C.B.Jayanthi

9.B.Ramesh

10.B.Sandhiya

11.A.Girija

12.J.Geetha

13.J.Manohar Reddy

14.J.Janardhana Reddy

.. Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 09.08.2021 passed in the interlocutory application in unnumbered I.A.Sr.No.491 of 2021 in O.S.No.454 of 2004 by the Additional District Judge, Chengalpattu, Kancheepuram District and to direct the learned Additional District Judge at Chengalpattu, Kancheepuram District, to number, try and entertain the interlocutory application in unnumbered I.A.Sr.No.491 of 2020 in O.S.No.454 of 2004, here all the parties and pass orders thereon, before continuing with the final decree proceedings.

For Petitioner : Mr.J.V.Suryanarayana,  
Party-in-person

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*C.R.P.(NPD).No.2722 of 2021*



*C.R.P.(NPD).No.2722 of 2021*

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## **ORDER**

This Revision is directed against the order rejecting the I.A.Sr.No.149 of 2020, an application filed for setting aside the preliminary decree in a partition suit, on a contention that the decree was obtained by fraud and suppression of material facts.

2. The preliminary decree was passed in the suit in O.S.No.454 of 2004 on 28.06.2007. An appeal was carried against the said decree in A.S.No.630 of 2008, to this Court. The appeal was dismissed on 28.02.2017. Two Review Petitions were filed before this Court, one by the petitioner herein and the other by some other respondent. The Review petition filed by the petitioner was withdrawn. The Review Application No.184 of 2018 was dismissed by this Court.

3. Thereafter, the petitioner moved the trial Court with the instant application to set aside the preliminary decree. The trial Court rejected the application on the ground that it is not maintainable.



*C.R.P.(NPD).No.2722 of 2021*

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4. Heard the petitioner, who appears in person.

5. The petitioner would contend that since the decree was obtained by suppression of facts, the same Court can set aside the decree.

6. I am afraid, such a contention of the petitioner cannot be accepted. The decree of the trial Court has been confirmed by the decree of this Court, by dismissal of the appeal. Thus, the decree of the trial Court merges with the decree of this Court. Admittedly, after the judgment, Review has also failed.

7. While it is open to the petitioner to launch separate proceedings by way of a suit, challenging the preliminary decree, I do not think this application can be entertained and the trial Court was justified in dismissing the application.



*C.R.P.(NPD).No.2722 of 2021*

**8. The Revision therefore fails and it is accordingly **dismissed**.**

However, it is open to the petitioner to take appropriate proceedings, questioning the decree, if he is so advised. No costs. Consequently, the connected miscellaneous petition is closed.

**08.12.2021**

dsa

Internet :Yes

Index : No

Speaking order

To

The Additional District Judge,  
Chengalpattu, Kancheepuram District.



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*C.R.P.(NPD).No.2722 of 2021*

**R.SUBRAMANIAN, J.**

dsa

**C.R.P.(NPD).No.2722 of 2021**

**08.12.2021**