



C.R.P.No.3108 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**DATED : 29.09.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.R.P.No.3108 of 2022**  
**and**  
**C.M.P.No.16696 of 2022**

Chinnammal

... Petitioner

Vs.

1.Rajeswari  
2.Chandrasahana

... Respondents

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.03.2022 passed in I.A.No.3 of 2021 in O.S.No.28 of 2018 on the file of the Principal Subordinate Court, Ariyalur.

For Petitioner : Ms.S.Harshitha



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**ORDER**

The Civil Revision Petition is filed, challenging the order passed by the Court below dismissing the application to reject the plaint filed by the petitioner/first defendant.

2. The first respondent herein, who is the daughter of the revision petitioner, filed a suit for partition claiming that the suit properties are ancestral properties.

3. The revision petitioner filed a petition to reject the plaint in I.A.No.3 of 2021 on the ground that the properties are separate properties and she has got the property from her father. The Court below dismissed the petition filed by the revision petitioner on the ground that in the case of prayer for rejection of plaint, the plaint averments and the plaint documents along with plaint should be considered and the Court below cannot look into the defence raised by



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the defendants.

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4. It is settled law, at the stage of considering the application for rejection of the plaint, Court below has to see only the plaint averments and documents filed along with the plaint. It is not open to the Court to look into the defence raised by the defendants. In the case on hand, the Court below has to decide the issue whether the suit properties are the ancestral properties as claimed by the first respondent/plaintiff or the separate property of the revision petitioner as claimed by her is the question to be decided only in a full fledged trial. Therefore, the same cannot be a ground for rejection of plaint. I concur with the reason given by the Court below for dismissing the petition.

5. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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**S.SOUNTHAR, J.**

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**To**

The Principal Subordinate Court, Ariyalur.

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