



WEB COPY



C.R.P.(PD)Nos.4685 & 4686 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)Nos.4685 & 4686 of 2015  
and M.P.No.1 of 2015

**In both CRPs.**

1. R.Krishnakumar
2. Alamelu

.. Petitioners

Vs

1. Kumar
2. Sankar
3. Chandra (died)
4. Chithra

5. Chinnakannnu
6. Sudhakar
7. Suganeswari
8. Birunthavanam
9. Suresh Kumar

(3<sup>rd</sup> respondent died. RR5 to 9 are brought on record  
as legal heirs of the deceased 3<sup>rd</sup> respondent viz.  
Mrs.Chandra vide Court order dated 06.11.2024 made  
in C.M.P.Nos.26218, 26216 & 26213 of 2023  
in C.R.P.(PD)No.4685 of 2015 &  
C.M.P.Nos.26204, 26201 & 26208 of 2023 in  
C.R.P.(PD)No.4686 of 2015 by VLNJ)

.. Respondents



*C.R.P.(PD)Nos.4685 & 4686 of 2015*

**COMMON PRAYER:** Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decretal order dated 15.10.2015 in I.A.Nos.249 & 250 of 2015 in O.S.No.289 of 2010 on the file of the learned District Munsif, Mettur.

**In both CRPs.**

For Petitioners : Mr.M.Rajasekhar

### **COMMON ORDER**

Both these civil revision petitions arise against the order passed by the learned District Munsif at Mettur in I.A.Nos.249 & 250 of 2015 in O.S.No.289 of 2010, dated 15.10.2015.

2. The plaintiffs are the civil revision petitioners. They have filed O.S.No.289 of 2010 seeking partition and separate possession. The defendants were served with summons. They also filed a written statement. The plea in the written statement in order to deny a decree for partition is that there was an oral partition, which had taken place between the plaintiffs and the defendants, in the year 2000. Nowhere in the written statement, has any plea being taken that there had been partition muchalika entered into between the parties.



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3. During the course of trial, the defendants had projected a document purporting to be a partition muchalika. This was strongly opposed by the plaintiffs. Yet the Court received the document as Ex.B8, of course, subject to the objections made by the plaintiffs.

4. As the document had been received by the Court, the plaintiffs took out applications in I.A.Nos.249 & 250 of 2015 seeking to reopen the evidence of the plaintiffs and to send Ex.B8 for forensic science report. It is the categorical case of the plaintiffs that the 2<sup>nd</sup> plaintiff is not a signatory to any panchayat muchalika. Hence, to substantiate the said plea, she being a Government servant, produced records obtained from her superior officer for the purpose of comparison of the signature in Ex.B8 along with her admitted signatures. The learned District Munsif at Mettur dismissed the applications. Hence, these revisions.

5. Notice was ordered in these revisions. The respondents have been served yet they have not entered appearance.

6. I have heard the submissions of Mr.Rajasekar for the civil revision petitioners. I have carefully gone through the records.



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7. A narration of the aforesaid fact point out that there is no pleading regarding any written muchalika that had been entered into between the plaintiffs and other members of the family. It is too well settled position of law, yet, I have to reiterate at this stage, no amount of evidence can be looked into when it is not supported by a plea.

8. A reading of the written statement shows that the defendants only pleaded about an oral partition between the members of the family. The written statement is absolutely silent about an alleged panchayat muchalika dated 28.03.2001. If that be the position, then obviously the Trial Court is correct in coming to a conclusion that when there is no plea, the Court cannot rely upon the document.

9. Learned Trial Judge has merely followed the settled position of law as declared by the Supreme Court and this Court. When the Court has come to a conclusion that it is not going to rely upon Ex.B8 at the time of pronouncement of judgment and in my opinion rightly so, there is no necessity to send the document for forensic examination.



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10. In the light of the above discussions, both the civil revision petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**06.11.2024**

Index: Yes/No

Speaking order/Non-speaking order: Yes/No

Neutral Citation: Yes/No

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To

The District Munsif, Mettur.



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**V. LAKSHMINARAYANAN,J.**

Kj

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(4/4)