



*C.R.P.(MD).Nos.857 of 2017 et., batch*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 05.02.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD).Nos.857 & 858 of 2017  
and  
C.R.P.(MD)Nos.2647 & 2699 of 2015  
and  
C.M.P.(MD)Nos.3787 & 3788 of 2017

In C.R.P.(MD)Nos.857 & 858 of 2017

1.Murugesan

2.Pichaiammal

... Petitioners /Petitioners /  
Plaintiffs  
in both C.R.Ps.

**Vs.**

1.Vijaya

2.K.Ravi

3.Muthiah

4.Arumugam

5.Vellangiri

6.Senthilkumar

7.A.V.V.Murugiah

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8.Dhanam

9.Leelavathi

10.Tamilarasi

11.Seethaiammal

12.Saroja

13.Subbulakshmi

14.Sumathi

15.Muthukannu

16.Sulochana

17.Sakunthala

18.Banumathi

19.Lalitha

20.Pappa @ Prema

21.Kannan

22.Hemalatha

23.Gowsalya

24.Ramesh

25.Usha

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26.Gunasekar  
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.. Respondents/Respondents/Defendants  
in both C.R.Ps.

**COMMON PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.Nos.16 & 17 of 2015 in O.S.No.55 of 2013 on the file of the IInd Additional Sub Court, Dindigul insofar as the disallowed portion.

For Petitioners : Mr.R.J.Karthick

For Respondents : Mr.K.P.Thiagarajan for R12 to R14

: Mr.G.Gomathisankar for R7 to R13

In C.R.P.(MD)No.2647 of 2015

1.A.V.V.Murugiah

2.Dhanam

3.Lilavathi

4.Tamilarasi

.. Petitioners / Respondents 7 to 10 /  
Defendants 7 to 10  
in both C.R.Ps.

Vs.

1.Murugesan

2.Pitchaiammal

3. Vijaya

.. Respondents / Petitioners / Plaintiffs



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4.K.Ravi

5.Muthiah

6.Arumugam

7.Velliyankiri

8.Sethilkumar

... Respondents 3 to 8 / Respondents 1 to 6 /  
Defendants 1 to 6

9.Seethaiammal

10.Saroja

11.Subbulakshmi

12.Sumathi

13.Muthukannu

14.Sulosana

15.Shakunthala

16.Panumathi

17.Lalitha

18.Pappa @ Prema

19.Kannan

20.Hemalatha

21.Gowsalya

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22.Ramesh

23.Usha

24.Gunasekar

... Respondents 9 to 24 /  
Respondents 11 to 26 / Defendants 11 to 26

**PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India, against the order and decree with respect to allow portion passed dated 08.04.2015 made in I.A.No.17 of 2015 in O.S.No.55 of 2013 on the file of the learned II Additional Sub Court, Dindigul.

For Petitioners : Mr.G.Gomathi Sankar

For Respondents : Mr.R.J.Karthick for R1 & R2

In C.R.P.(MD)No.2699 of 2015

1.A.V.V.Murugiah

2.Dhanam

3.Lilavathi

4.Tamilarasi

.. Petitioners / Respondents 7 to 10 /  
Defendants 7 to 10

Vs.

1.Murugesan

2.Pitchaiammal

... Respondents / Petitioners / Plaintiffs



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3.Vijaya

4.K.Ravi

5.Muthiah

6.Arumugam

7.Velliyankiri

8.Senthilkumar

... Respondents 3 to 8 / Respondents 1 to 6/  
Defendants 1 to 6

9.Seethaiammal

10.Saroja

11.Subbulakshmi

12.Sumathi

13.Muthukannu

14.Sulosana

15.Shakunthala

16.Panumathi

17.Lalitha

18.Pappa @ Prema

19.Kannan

20.Hemalatha

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21.Gowsalya

22.Ramesh

23.Usha

24.Gunasekar ... Respondents 9 to 24 / Respondents 11 to 26 /  
Defendants 11 to 26

**PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India, against the order and decree with respect to allow portion passed dated 08.04.2015 made in I.A.No.16 of 2015 in O.S.No.55 of 2013 on the file of the learned II Additional Sub Court, Dindigul, Dindigul District.

For Petitioners : Mr.G.Gomathi Sankar

For Respondents : Mr.R.J.Karthick  
for Mr.M.Saravanan for R1 & R2

### **COMMON ORDER**

Since the above four Civil Revision Petitions are arising out of O.S.No.55 of 2013, this Court deems it appropriate to dispose of the four Civil Revision Petitions by way of a common order.

2. C.R.P.(MD)No.857 of 2017 and C.R.P.(MD)No.858 of 2017 are arising out of an order in amendment application regarding the disallowed



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portion of the prayer passed in I.A.Nos.16 & 17 of 2015 in O.S.No.55 of 2013 as well as the injunction application. Similarly, the defendants have come up with C.R.P.(MD)Nos.2647 & 2699 of 2015 against the order of amendment.

3. For the sake of convenience, the parties herein are referred to as per their ranking in the suit.

4. Before the trial Court, the learned counsel for the plaintiffs would submit that after filing of the written statement and before commencing the trial, they came to know about the existence of some of the ancestral property of their family and the same was not included in the main suit. Therefore, they wanted to amend the plaint by filing an application. The said application was resisted by the defendants by contending that Item No.1 referred to in the amendment application though belongs to their family originally, had been sold to one Stride Aquatics Limited about 20 years back and similarly, Item No.2 referred in the amendment application though originally belong to their family has been subsequently plotted out and sold to many persons. Therefore, the learned counsel for the defendants would submit that since the property does not belong to their family, the



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amendment as sought for in the said application is contrary to law. The learned counsel for the defendants would further submit that unless and until the subsequent purchasers are impleaded, the amendment application cannot be allowed. The learned trial Court after carefully gone into the various aspects had partly allowed the application only in respect of Item No.1 of the property and had dismissed the application in respect of Item No.2 to 4.

5. Therefore, the findings of the trial Court is that in respect of Item No.2, since the property has been plotted out and sold to various third parties, the question of amendment at this stage cannot be gone into. However, this Court is not in a position to concur with the findings of the trial Court. It is pertinent to mention here that the defendants are not disputing the holding of Item Nos.1 & 2 of the property mentioned in the amendment application. Their only objection is that, as of now, as regards Item No.2, the property has been sold. However, the learned counsel for the plaintiffs / petitioners would submit that since the property is an ancestral property and they are not parties to the proceedings, they are entitled to seek partition by ignoring the alleged sale. This Court do not want to go into the



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factual aspects. However, the facts remain that the property originally belonged to their family. Therefore, the amendment sought for by the petitioners cannot be held as not valid. Hence, this Court would like to interfere with the order of the trial Court.

6. In the result, C.R.P.(MD)Nos.857 & 858 of 2017 are allowed, as a sequel, C.R.P.(MD)Nos.2647 & 2699 of 2015 are dismissed. It is made clear that the defendants are at liberty to file the additional written statement after the amendment takes place and the trial Court is directed to dispose of the suit without influencing any findings made in these Civil Revision Petitions. Considering the long pendency of the suit, the trial Court is expected to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

**05.02.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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To

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- 1.The II Additional Sub Court, Dindigul.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**C.KUMARAPPAN,J.**

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C.R.P.(MD).Nos.857 & 858 of 2017  
and  
C.R.P.(MD)Nos.2647 & 2699 of 2015

05.02.2024