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C.R.P.No.901 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.901 of 2024
and C.M.P.Nos.1912 and 4467 of 2025

1.Rathinavel

2.Alaimagal

... Petitioners

vs.

Duraisamy

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.2 of 2023 on the file of the District Munsiff, Pochampalli and allow the revision.

For Petitioners : Mr.M.Vignesh

ORDER

This Civil Revision Petition is filed seeking strike off the plaint filed by the respondent in O.S.No. 2 of 2023 on the file of the District Munsiff, Pochampalli.

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2. The respondent filed a suit for declaration of title, permanent injunction and also for declaration that the settlement deed executed in favour of the second petitioner/second defendant dated 29.01.2022 was null and void.

3. According to the respondent, the suit property is the ancestral property and after death of the respondent's father, there was an oral partition in the family 40 years ago and the suit property was allotted to his share. It was further stated that he put up a construction in the suit property and had been enjoying the same. It is further stated that mortgage debt incurred by pledging the suit property jointly by first petitioner and respondent was paid by respondent. The first petitioner herein obtained sub division patta in his name by misrepresentation by claiming right over the suit property and settled the same in favour of the second petitioner. Hence, the respondent filed the above suit.

4. The petitioner herein who were arrayed as defendant filed the instant Civil Revision petition seeking to strike off the plaint on the ground



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that a oral partition that had taken place in the family and the suit property was allotted to the share of first petitioner and based on that oral partition, the first petitioner had been in possession and enjoyment of the property and based on his own right, settlement deed was executed in favour of the second petitioner.

5. It is also stated by the learned counsel for the petitioner that suppressing the above facts, the present suit is filed by the respondent claiming right over the suit property.

6. It is seen from the plaint as well as on the ground raised in the revision petition, the first petitioner and respondent are claiming exclusive right over the suit property under oral partition that had taken place long back, prior to filing of the suit. Whether there was an oral partition in the family and whether the suit property was exclusively allotted to the petitioner or first defendant can be decided only based on evidence at the time of trial.

7. Based on these disputed plea raised by the petitioner, the plaint filed by the respondent cannot be struck off.



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8. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected civil miscellaneous petitions are closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The District Munsiff,
Pochampalli.



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S.SOUNTHAR, J.

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