



Crp.No.58 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.58 of 2025
C.M.P.No.538 of 2025

1.Vijaya @ Vijayalakshmi

2.S.Gowrishankar

3.Yuvapriya

4.Prathiba

...Petitioners
Vs.

1.Palanisamy @ Rajapalanisamy

2.Kamalam

3.Rukmani

4.Mallika

5.Krishnaveni

6.Maheswari

7.R.Duraisamy

8.Shanmughavalli

9.Radhika

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- 10.Minor Chitra
represented by the next friend and mother Shanmughavalli.
- 11.M.Ambikapathy
- 12.Saraswathy
- 13.K.Manikandan
- 14.Devendrakumar
- 15.S.Subramaniam
- 16.M.Kandasamy ...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the Fair and Decreetal order dated 04.09.2024 made in I.A.No.02 of 2021 in O.S.No. 34 of 2015 on the file of the I Additional District Court , Erode.

For Petitioner : Mr.M.Guruprasad

ORDER

Aggrieved by the fact that the application for amendment by the plaintiffs had been allowed, the defendants 7, 8, 10 and 11 have filed the above revision petition. They would submit that the plaintiffs filed the suit O.S.No.34 of 2015 on



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the file of the I Additional District Court, Erode, for partition and separate possession of the suit properties and for permanent injunction against the defendants.

2.The plaintiff's case is that originally an extent of 10.57 and $\frac{1}{2}$ acres in old S.F.No.287 in Mukasipidariyur Village, Perundurai Taluk now R.S.Nos.201/1, 201/2 and 201/3 belonged to Ammaniammal, one Marappagounder the husband of the 9th defendant and one Marayammal. Ammaniammal was entitled to 5.28 $\frac{1}{2}$ acres, Marayammal was entitled to 2.64 $\frac{1}{2}$ acres and the remaining 2.64 $\frac{1}{2}$ acres belong to Marappagounder. All the three were enjoying the properties in common. Under a registered sale deed dated 05.08.1942, Periyagounder had purchased the extent of 2.64 $\frac{1}{4}$ acres belonging to Marayammal, who are the great grand father of the plaintiffs. After demise of Periyagounder and his wife Valliammal their two daughters Ammaniammal and Periyammal succeeded to the property. Thereafter, Ammaniammal died leaving behind her son Murugasamy as a legal heir. Murugasamy sold an extent of 2.64 $\frac{1}{4}$ acre in common to Marappagounder, under a registered sale deed dated 12.06.1974. Therefore, Marappagounder became entitled to an extent of 5.28 $\frac{1}{2}$ acre as he already owned an extent of 2.64 $\frac{1}{2}$ acres. After the demise of Murugasamy, issueless as a bachelor, the plaintiffs 1 to



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5 and defendants 1 to 6 claimed to be the legalheirs of Murugasamy entitled to succeed to this remaining extent of 2.64 ½ acres which he inherited from Ammaniammal. Plaintiffs 1 to 5 and defendants 1 to 6 claimed to be legalheirs of Ammaniammal being the legal heirs of Periyammal, the sister of Ammaniammal.

3.The defendants 7, 8, 10 and 11 who are the petitioners herein would submit that the very relationship between themselves and the defendants 1 to 6 set out in the plaint are not correct. Further, the allegation that Periyagounder and Valliammal had two daughters Ammaniammal and Periyammal are also false. Periyagounder's wife is Marayammal and not Valliammal and Ammaniammal was the only daughter of Periyagounder. Ammaniammal married Periannagouder and their share was inherited by their only son Murugasamy who had died bachelor and issueless. Therefore, neither, the plaintiffs nor defendants 1 to 6 can claim to be the legalheir of deceased Ammaniammal. They would submit that an extent of 10.57 ½ acres was owned by the following owners:-

<i>S.No.</i>	<i>Owners Name</i>	<i>Share</i>
01	Muthupalanigounder, father of Marappagounder	5.28 ½ acres (half share in total – eastern side of share)
02	Periagounder	2.64 ½ acres (one fourth share in total-western side)
03	Marayammal, wife of	2.64 ½ acres (one fourth share in



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<i>S.No.</i>	<i>Owners Name</i>	<i>Share</i>
	Chennaiimalaigounder	total western side)

4.Later Marayammal had sold her share to Periagounder, who is the father of Ammaniammal. On his demise, Ammaniammal as his sole legalheir succeeded to his remaining share of 5.28 ½ acres as well. After Ammaniammal, her son Murugasamy has succeeded to the property. Similarly eastern half share of Muthupandigounder was inherited by his son Marappagounder. Since, Murugasamy was not interested in cultivation his share was used as a pasture land for the cattle of Marappagounder who was carrying on agricultural activities in the eastern half. They would further go on to trace the flow of title in respect of the properties.

5.The defendants 6, 7, 9 and 10 would go on to state that Marappagounder filed a suit in O.S.No.374 of 1995 on the file of the District Munsif Court, Erode, for declaration of title to the share of 10.57 ½ acres and for consequential relief. The suit was decreed on 07.09.1995 which clearly confirms title of of Marappagounder and his legalheirs. Plaintiffs 3, 4 and 5 and one Velusamy had



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moved the revenue authorities for issue of heirship certificate to them claiming to be the legal heirs of Ammaniammal. This suit was rejected. Thereafter, they filed suit O.S.No.51 of 2014 which is now numbered as O.S.No.34 of 2015 on the file of I Additional District Court, Erode, suppressing all these facts.

6. Pending the suit, the fourth plaintiff had passed away as a bachelor leaving behind him surviving his sister, the 5th plaintiff, his deceased brother Krishnavelu @ Velusamy' wife Shanmugavalli, her daughters Radhika and Chitra as his legal heirs. It is thereafter the plaintiffs had filed an application for amending the plaint in I.A.No.1 of 2019 which was dismissed by order dated 30.01.2020 giving liberty to the plaintiffs to file a fresh application with the appropriate documents. Thereafter, the present application has been filed. This application is allowed only on the ground that the plaintiffs as dominus litis can choose the parties against whom he can litigate. Aggrieved by the same, the defendants (7, 8, 10 and 11) are before this Court.

7. Heard the learned counsels on either side and perused the records.

8. The amendment that is sought to be made is extracted herein below:-



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1.In the docket sheet, short cause title and in the long cause title add the following after the name of the 4th petitioner Sivasamy as follows:-

“(Died)”

2.In the body of the plaint after the para X a), add the following:-

“X b).During the pendency of the suit the 4th plaintiff died on 15.06.2019 leaving behind his sister i.e.the 5th plaintiff and legal heirs of his brothers wife and daughters namely defendants 4 to 6 and they succeeded the estate left behind by him”

9.It is admitted fact that the fourth plaintiff had died leaving behind his sister, the fifth plaintiff and the legal heirs of his brother. The amendment is only a sequel to the death of the party to the proceedings. The fifth plaintiff is already on record. By allowing this application no prejudice whatsoever would be caused on the petitioners/defendants 7, 8, 10 and 1 and his right to question, the right of the implead parties is still kept alive. Therefore, I see no reason to interfere with the order passed by the learned I Additional District Judge, Erode, in I.A.No.2 of 2021 in O.S.No.34 of 2015 dated 04.09.2024.



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10.Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order



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P.T.ASHA, J.,

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To

I Additional District Court, Erode.

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