



C.R.P.(PD)No.502 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

C.R.P.(PD)No.502 of 2025

1.C.R.Jagadeesan
2.M.Malathi
3.Suganya
4.M.Chandrika

...Petitioners

-Vs-

1.Govindasamy
2.Ragunath
3.Anitha
4.Rajamani
5.Pushpa @ Pushpavathi
6.V.Senthilkumar
7.S.Ganapathi
8.K.Marimuthu
9.D.Sivalingam

... Respondents

Prayer: Civil Revision petition filed under Article 227 of the Constitution of India, against the order of the learned Additional Sub Court at Erode in I.A.No.7 of 2024 in O.S.No.1078 of 2022 dated 08.08.2024.

For Petitioner

: Mr.C.S.Saravanan



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ORDER

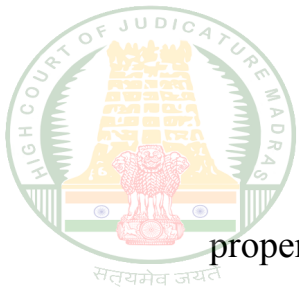
The plaintiffs have filed the above Civil Revision Petition challenging the order passed by the learned I Additional Subordinate Judge, Erode, in I.A. No. 7 of 2024, by which the application filed by the fourth plaintiff for receiving additional documents was dismissed.

2. The parties are referred to in the same ranking as before the Sub-Court.

3. The facts that have culminated in the filing of the above Civil Revision Petition are set out below:

The plaintiffs filed the suit in O.S. No. 1078 of 2022 on the file of the learned I Additional Subordinate Judge, Erode, seeking partition and separate possession of their 1/4th share in the suit-scheduled property and an injunction restraining the defendants from alienating the suit properties.

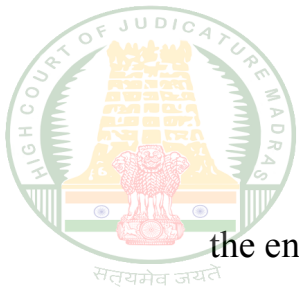
4. The plaintiffs contend that the suit property is their ancestral



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property belonging to one Chinnappa Goundar, who had two daughters, namely, Lakshmi and Rajamani, and one son, Kannusamy. The elder daughter, Lakshmi, died intestate on 04.07.1997, leaving behind the plaintiffs 1 to 4 as her legal representatives. The second daughter, Rajamani, has been arrayed as the 4th defendant. The first defendant, Govindasamy, is the son of Kannusamy and the grandson of Chinnappa Goundar. The 5th defendant is the daughter of Kannusamy. The defendants 2 and 3 are the son and daughter of the first defendant.

5. The plaintiffs contend that they along with the defendants are in joint possession and enjoyment of the entire suit property. After the amendment to the Hindu Succession Act on 30.09.2005, the plaintiffs became coparceners in respect of the property and, therefore, are entitled to a 1/4th share in the suit-scheduled property. The 4th defendant is entitled to a 1/4th share. The plaintiffs' grandfather, Chinnappa Goundar, had executed a registered will in respect of his share in the suit property in favor of his grandson, the first defendant. Likewise, the first defendant's father, Kannusamy, had also executed and registered a will regarding his share in the suit property in favour of the first defendant's son. Therefore, the defendants 1 to 3 are jointly entitled to a 1/2 share in



the entire property.

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6. The plaintiffs recently discovered that defendants 1 to 3 were attempting to alienate the suit property to third parties. They also learned that the first defendant had sold a part of the suit property to defendants 6 and 7 on 17.07.2020. Subsequently, on 02.03.2022, defendants 6 and 7 executed a registered sale agreement with the 8th defendant regarding the property they had purchased. On the same day, i.e., 02.03.2022, the first defendant executed a registered sale agreement in favor of the 9th defendant for a portion of the suit property.

7. The plaintiffs submit that these sales are not binding on them. The 5th defendant had filed a suit for partition against defendants 1 to 4 before the II Additional Subordinate Judge, Erode. However, in collusion with defendants 1 to 3, the 5th defendant did not press the suit and filed a memo to that effect on 30.03.2022. Consequently, the suit O.S. No. 266 of 2015 was dismissed as not pressed. After the dismissal of O.S. No. 266 of 2015, the plaintiffs requested the defendants to partition the property, but the request was not accepted. It was only after the dismissal of O.S. No. 266 of 2015 that the first defendant sold a portion of the property to defendants 6 and 7 on 17.07.2020. Therefore, the plaintiffs have now



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come forward with the suit for partition.

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8. The plaintiffs filed an application in I.A. No. 7 of 2024 to submit certain additional documents. This application was opposed by the first defendant, who contended that the plaintiff had already examined herself as P.W.1 and filed a proof affidavit on 24.11.2023.

9. During her chief examination, Exs. A1 to A16 were marked. Thereafter, for the continuation of chief examination, the suit was posted on 02.12.2023, 15.12.2023, and 05.01.2024. On 05.01.2024, Exs. P17 to P21 were marked through P.W.1. The defendants 1 to 3 cross-examined P.W.1 partially on 11.01.2024. The cross-examination was then adjourned to 22.01.2024 and 30.01.2024 and subsequently to 02.02.2024. The cross-examination was concluded on 02.02.2024. P.W.2, the fourth plaintiff, was examined on 14.02.2024, and at this stage, the present application was filed.

10. The defendant further argued that P.W.1 was hard of hearing and that documents had to be filed to support this contention, which was not acceptable. If P.W.1 was truly hard of hearing, it should have been brought to the court's notice at the very first instance.



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WEB COPY 11. The defendant also contended that no application had been filed to eschew the evidence of P.W.1, and without doing so, the present application to receive additional documents through P.W.2 was not maintainable. The learned I Additional Subordinate Judge, Erode, after hearing the parties, dismissed the application. Challenging this order, the present Civil Revision Petition has been filed.

12. Heard the learned counsel for the petitioners.

13. The plaintiffs permitted the cross-examination of P.W.1 despite claiming that P.W.1 was hard of hearing and unable to comprehend the questions. However, nowhere in the petition or the supporting affidavit do they contend that the plaintiff gave incoherent answers, necessitating the submission of additional documents. Furthermore, they have not sought to eschew the evidence already given by P.W.1. These allegations appear to be an attempt to protract and delay the proceedings. Additionally, the application was moved only by the fourth plaintiff, and not the first plaintiff, who was examined as P.W.1, has not claimed that he was hard of hearing or unable to understand the questions posed to



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14. In these circumstances, I find no reason to interfere with the order of the learned I Additional Subordinate Judge, Erode, in dismissing the application.

15. Accordingly, this Civil Revision Petition is dismissed.

No costs.

13.02.2025

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To

The Additional Sub Court,Erode

P.T.ASHA,J.,

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