



C.R.P.P.D.No.659 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 24.02.2025

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.R.P.P.D.No.659 of 2025
and C.M.P.No.3744 of 2025

1. M.Babu
2. Ezhil Arasi

.. Petitioners

[Cause title accepted vide Court order
dated 03.02.2025 made in C.M.P.No.2112 of 2025
in C.R.P.Sr.No.3685 of 2025]

-Vs.-

Murugesan (Deceased)

1. Malliga
2. Muthukumaran
3. Bhavani

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to allow this revision petition, set aside the order and decretal order dated 18.09.2024 passed by the learned XVI Additional Judge, City Civil Court, Chennai in I.A.No.5 of 2023 in O.S.No.7759 of 2022, permit the amendment of the pleadings in the plaint as stated in the petition.



WEB COPY



C.R.P.P.D.No.659 of 2025

For petitioners ... Mr.N.Gokula Rao

ORDER

Aggrieved plaintiff is the revision petitioner before this Court challenging the order rejecting his amendment application.

2. The facts are briefly set out herein below for morefully appreciating the issue which is the subject matter of revision. The parties for the ease of understanding are being referred to in the same ranking as before the Trial Court.

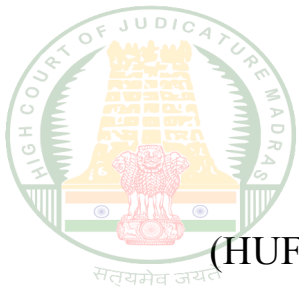
(i) The plaintiffs had filed O.S.No.7559 of 2022 on the file of the XVI Additional Judge, City Civil Court, Chennai seeking a partition and separate possession of their 1/4th each share in the suit schedule properties, to declare the various settlement deeds as null and void and for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the properties.



C.R.P.P.D.No.659 of 2025

(ii) The plaintiffs and the 3rd defendant are the children born to the 1st defendant and his legitimate wife, Unnamalai, who had committed suicide and died owing to certain matrimonial issues. The 4th defendant is born to the 3rd defendant through his concubine, Malliga, who was a neighbour and married to one Devaraj.

(iii) The plaintiffs would submit that their mother had passed away only on account of the extra marital relationship that the 1st defendant had with the 3rd defendant. Originally, their mother had moved from a matrimonial home to Ponniyammanmedu. They would further submit that the property which is described as Item No.1 in the suit schedule belonged to their grandmother, Muniyammal who was allotted the same by the Tamil Nadu Urban Habitat Development Board under a registered Sale Deed dated 23.07.2010. Till her death on 27.02.2010, she was in continuous possession and enjoyment of the properties. Item No.2, which is the dwelling house, was purchased out of the income derived from the income of the Hindu Undivided Family



C.R.P.P.D.No.659 of 2025

(HUF) properties. Subsequently, it was brought under the EMI scheme by the plaintiffs' grandmother. Even during the life time of their grandmother, the plaintiffs were in joint possession and enjoyment of the property along with the other legal heirs, namely, defendants 1 and 3.

(iv) The plaintiffs would submit that the 2nd defendant had taken away most of their mother's jewellery and the HUF income. The Item 1 and 2 properties were partly built during the lifetime of their original allottee, Muniyammal, and thereafter, the 1st plaintiff, with his independent income, had plowed money into the construction of the property. Taking note of the actions of the 2nd defendant, the plaintiffs had approached the 1st defendant for partition, which he did not agree to. Thereafter, they came to learn about the settlement deed in respect of the HUF made by the 1st defendant in favour of defendants 2, 3, and 4. Therefore, the plaintiffs have come forward with the suit in question.



C.R.P.P.D.No.659 of 2025

3. Pending the suit, the plaintiffs have come forward with the application for amending the plaint, which is the subject matter of this revision.

4. The amendment that was sought for is that Muniyammal was not the absolute owner of Item No.1 of the suit schedule property, though it was allotted in her name, and she had been allotted the property only as a trustee on behalf of the HUF. Thereafter, the names of defendants 1 to 4 have been erroneously linked to the property by creating various settlement deeds in respect of the intestate HUF property.

5. The learned Judge, after considering the pleadings on either side and the documents, rejected the application, stating that it gives rise to an entirely a new cause of action. Challenging the same, the petitioner is before this Court.



C.R.P.P.D.No.659 of 2025

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. The plaintiffs had initially come forward with the case that Item No.1 of the suit property belonged to their grandmother, Muniyammal, the same having been allotted to her by the Tamil Nadu Urban Habitat Development Board, Salem. It is also their contention that their grandmother died intestate, and therefore, they are entitled to a share in the property. However, by reason of the amendment, they seek to make a change in respect of the ownership of the property by stating that Muniyammal was allotted the property only as the Kartha of the HUF. How a Hindu woman would become the Kartha of the HUF has not been explained.

8. Be that as it may, as rightly pointed out by the learned XVI Additional Judge, the entire cause of action undergoes a change. Originally, the plea of the property being the absolute property of



C.R.P.P.D.No.659 of 2025

WEB COPY

Muniyammal gives way to stating that the property has been allotted to her as the Kartha of the HUF. The pleadings are totally contradictory to each other and, as rightly pointed out, give rise to a new cause of action. The written statement, issues framed, and all other documents have all got to be revised in the light of this new pleading that is taken. The amendment, therefore, has rightly been rejected by the learned Judge and I see no reason to interfere with the same. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2025

srn

To

1. The XVI Additional Judge, City Civil Court, Chennai
2. The Section Officer, V.R.Section, High Court, Madras



WEB COPY



C.R.P.P.D.No.659 of 2025

P.T.ASHA.J

srn

C.R.P.P.D.No.659 of 2025

24.02.2025