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C.R.P.(PD).No. 951 & 952 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos. 951 & 952 of 2025

&

C.M.P.No. 5481 & 5488 of 2025

CRP/951/2025

Sundari (died)

1.C.Venkatachalam

2.Indirani

3.Visalakshi

4.Sudha

5.Nagappan

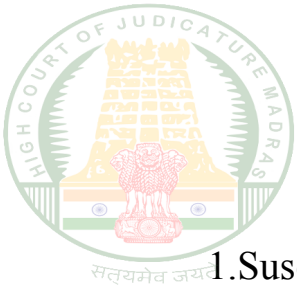
6.Ramasamy

7.Ponnusamy

8.Mani

...Petitioners

Vs.



C.R.P.(PD).No. 951 & 952 of 2025

1.Suseela @ Thulasimani

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2.Geetha

3.Sudhamani @ Sudha

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 10.12.2024 made in IA.No.12 of 2024 in OS.No.126 of 2019 on the file of the II Additional Sub Judge, Erode.

CRP/952/2025

Sundari (died)

1.C.Venkatachalam

2.Indirani

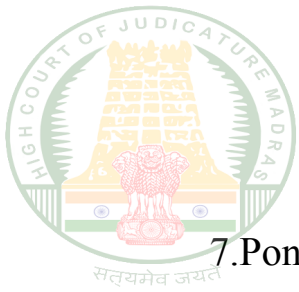
3.Visalakshi

4.Sudha

5.Nagappan

6.Ramasamy

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C.R.P.(PD).No. 951 & 952 of 2022

7.Ponnusamy

8.Mani

...Petitioners

Vs.

1.Suseela @ Thulasimani

2.Geetha

3.Sudhamani @ Sudha

...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 10.12.2024 made in IA.No.11 of 2024 in OS.No.126 of 2019 on the file of the II Additional Sub Judge, Erode.

For Petitioners : Mr. R.Prabakar
In all petitions

ORDER



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The defendants 2 to 9 have filed the above petitions challenging the order passed in IA.Nos.11 and 12 of 2024 in O.S.No.126 of 2019 on the file of the II Additional Sub Court, Erode. The brief facts are herein below set out. The parties are referred to in the same array as before the Trial Court.

2. The plaintiffs filed OS.No.126 of 2019 on the file of the II Additional Sub Judge, Erode for declaring the Judgement passed in OS.No.291 of 2018 on the file of the Principal District Munsif, Erode as between defendants 1 to 9 as non est, ab initio void and for an injunction restraining the defendants 1 to 10 from in any manner laying, claiming any right, interfering with the plaintiffs peaceful possession and enjoyment of the suit property based on the said decree and judgement passed in OS.No.291 of 2018, on the file of the Principal District Munsif, Erode.



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3. It is the case of the plaintiffs that one Kuppa Gounder owned 3.01 acres of land in GS.No.1171 and 1262 of Erode village. Out of the said extent 1.50 ½ acres have been conveyed by Kuppa Gounder in favour of Nachimuthu Gounder son of Palani Gounder under a registered sale deed dated 06.03.1916. This property was sold by Nachimuthu Gounder to one C.S.Krishna Iyer under a registered sale deed dated 10.09.1995.

4. The said C.S.Krishna Iyer had inturn conveyed the property to Palani Gounder, under a sale deed dated 23.06.1926. Palani Gounder died 7 decades ago leaving behind his son Kuppusamy Gounder as his only legal heir, who had also passed away 60 years back leaving behind his three sons, namely, Sengoda Gounder, Nallappa Gounder and Narayana Gounder. The three brothers had entered into a registered partition deed dated 07.04.1960 with each being allotted 50 cents for their residential purpose leaving the remaining properties in common. This partition deed had been registered as Doc.No.895/1960 on the file of the Sub Registrar, Erode.



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5. During the resurvey proceedings the GS.No.1171 and 1172 was clubbed in as RS.No.1277. Once again Sengoda Gounder, Narayana Gounder and the son of Nallapa Gounder, who had since passed away partitioned the remaining extent which were kept in common through orders of the Court in OS.No.75 of 1997. In this partition the plaintiffs were allotted 1.11 acres adjacent to their 50 cents already provided for their house site. A portion of the property was also gifted by the 1st plaintiff to her daughters, plaintiffs 2 and 3.

6. The defendants claiming to be successors in interest of Nachimuthu Gounder were attempting to grab the land from the plaintiffs and their family. Meanwhile, the petitioners herein / defendants claiming to be successors in interest of Nachimuthu Gounder had filed OS.No.291 of 2018 on the file of the District Munsif, Erode. They had voluntarily got the matter posted before the Lok Adalat on 26.10.2018 and obtained a compromise final decree on 08.11.2018.



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7. The plaintiffs would submit that the defendants 1 and 2 did not have any semblance of a right title to the property and the compromise final decree has been obtained collusively. Therefore, the suit had been filed.

8. The 2nd defendant had filed a detailed written statement refusing the contention of the plaintiffs.

9. It appears that after the plaintiffs had examined P.W.2 and P.W.3 who are revenue authorities on 18.04.2023 and 26.04.2023 the petitioners did not take any steps to cross examine them. Thereafter, when the matter was listed for arguments they had come forward with the impugned petitions to reopen and recall the evidence of PW2 and PW3 for cross examination. The applications were vehemently objected to by the plaintiff.

10. Ultimately the learned Trial Judge had dismissed the said



applications.

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11. Challenging the same, the petitioners are before this court.

12. A perusal of the order passed by the learned Trial Judge would clearly show that when the matter was posted for the evidence of PW2 and PW3, the learned counsel for the defendants / revision petitioners had failed to cross examine them and was not ready to cross examine them. The evidence of P.W.2 was concluded on 18.04.2023 and P.W.3 on 26.04.2023. Thereafter, the plaintiffs' side evidence was closed. The defendants have not chosen to enter the witness box. The matter was also adjourned on several occasions for arguments and it is at this juncture that the application for reopen and recall has been filed.

13. The applications are totally bereft of any reasons whatsoever. The petitioners have simply stated that on the date of the hearing they were unable to meet their lawyer. Therefore, their lawyer was not able to conduct the cross examination. Apart from the above no other



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reasons have been given with reference to the delay. Further, even in the course of arguments also no satisfactory reasons have been put forward.

14. In these circumstances, I see no reason to interfere with the well considered Judgement of the learned Trial Judge. Accordingly, the civil revision petitions are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

07.03.2025

Index : Yes/No
Internet : Yes/No
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To

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The II Additional Sub Judge,
Erode.

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P.T. ASHA, J.



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