



WEB COPY

CRP No.491 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 491 of 2024 and
CMP No.2309 of 2024**

1. K.Revathi

W/o.Kangaraj, No.4/532,
Ranganathapuram, Seeliyur Via and
Post, Mettupalayam Taluk

Petitioner(s)

Vs

1. Bathirappa Gowder

S/o.Kariappa Gowder, No.4/127B,
Ranganathapuram, Seeliyur Via and
Post, Mettupalayam Taluk

2.MARAPPAN

S/o.Bathirappa Gowder, No.4/127B,
Ranganathapuram, Seeliyur Via and
Post, Mettupalayam Taluk

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order 07.11.2023 made in IA No.1 of 2022 in OS No.139/2013 on the file of District Munsif court, Mettupalayam and to allow the CRP.



For Petitioner(s): Mr. C.Prabakaran

For Respondent(s): R1 – No appearance
R-2 – No appearance

ORDER

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This civil revision petition is filed challenging the order passed by the court below, dismissing the application filed by the petitioner seeking amendment of the plaint.

2. The petitioner herein filed a suit for partition against his father and brother. The instant application has been filed for amendment of plaint on the ground that certain joint family properties were not included in the plaint schedule.

3. The respondents filed counter affidavit and resisted the amendment application, on the ground that the properties mentioned by the petitioner were settled by the first respondent in favour of his wife, the 2nd respondent herein on 10.06.1974 itself and therefore, the same could not be treated as joint family properties.



4. It is seen from the order impugned in this civil revision petition that the petitioner was not even born, when the settlement had been executed by the first respondent in favour of his wife and son and therefore, the petitioner cannot claim any right over the property, which was already settled in favour of the 2nd respondent. Therefore, the said property is not available for partition.

5. The suit is filed by the petitioner for partition, and by virtue of amendment, he wants to include two items of the properties in S.No.280, 281/1 situated at Chinnakallipatti Village, Mettupalayam. It is the case of the respondent that the said property was settled by the first respondent in favour of his wife, the 2nd respondent by way of settlement even in the year 1974 and therefore, the same is not available for partition.

6. Whether the properties are available for partition or not is a matter to be decided at the time of trial. By inclusion of properties in the suit for partition, which is already pending, the respondents are not at all prejudiced. It is always open to the respondent to establish before the Trial Court that these two properties are not available for partition, at the time of final disposal. Hence, this court is inclined to interfere with the order passed by the court below.



7. Accordingly, this civil revision petition is allowed. The impugned order passed by the Trial Court is set aside thereby, I.A.No.1 of 2022 in O.S.No.139 of 2013 on the file of District Munsif Court, Mettupalayam is allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

30-10-2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The District Munsif, Mettupalayam.



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S.SOUNTHAR J.

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