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Civil Revision Petition No. 496 to 498 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.PD.Nos.496 to 498 of 2025
and C.M.P.No.2848 of 2025

Kantha (died)

1. Krishnamoorthy
2. Jayapal
3. Gowri
4. Jayanthi

... Petitioners in all C.R.Ps

Vs

1. Sekar
2. S.Maheshwari

Govindaraj (died)

3. Kesavan
4. Maheshwari

... Respondents in all C.R.Ps

Prayer in all C.R.Ps : Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set the common fair and decretal order passed in I.A.Nos.84, 83 and 85 of 2019 respectively in O.S.No.196 of 2019 on the file of the Special Sub Court, Vellore by allowing revision petition.



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For Petitioners : Mr.T.S.Baskaran

in all C.R.Ps

For Respondents-1 &2 : Mr.P.Sankaranarayanan

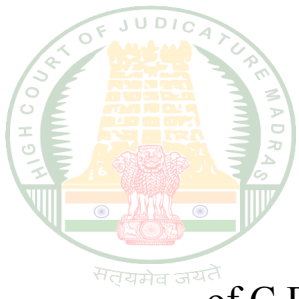
For Respondents-3&4 : Not ready in notice

COMMON ORDER

The Civil Revision Petition is filed by the plaintiffs 2 to 5 challenging the common order passed in I.A.Nos.83 to 86 of 2019 in O.S.No.196 of 2019 on the file of the Special Subordinate Court, Vellore, Vellore District.

2. I.A.No.83 of 2019 is filed to reopen the suit O.S.No.331 of 2013 for passing a final decree allotting the petitioners' 5/6th share in the suit properties.

3. I.A.No.84 of 2019 is filed to implead the respondents 1 and 2 herein as defendants 4 and 5 in O.S.No.331 of 2012.

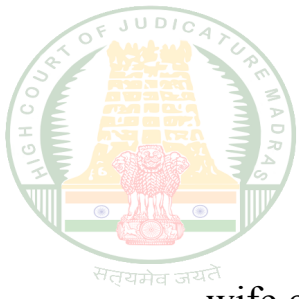


4. I.A.No.85 of 2019 is filed under Order 9 Rule 13 and Section 151 of C.P.C to set aside the ex-parte decree dated 13.06.2013.

5. I.A.No.86 of 2019 is filed to implead the respondents 1 and 2 herein as respondents 4 and 5 in the final decree application in I.A.No.101 of 2014 in O.S.No.331 of 2012.

6. The facts which has given rise to the above revisions are herinbelow set out. The parties are referred to in the same ranking as before the trial Court.

(i) The petitioners herein /plaintiffs 2 to 4 along with their deceased Mother, Kantha had filed O.S.No.331 of 2013 on the file of the Subordinate Judge, Vellore seeking a partition and separate possession of 5/6th share in the suit schedule property. The suit was filed against C.Govindaraj, the husband of Kantha and his son and daughter who are arrayed as respondents 3 to 4 herein.



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(ii) It was their case that the deceased Kantha / the 1st plaintiff is the wife of the 1st defendant and the plaintiffs 2 to 5 were born to her and the 1st defendant. The defendants 2 and 3 are the children born out of the wedlock between the 1st plaintiff and 1st defendant and one Late Pounu. It is only after the death of the said Pounu that the deceased Kantha had married the 1st defendant in the year 1969-70. In fact, there was a strained relationship between the 1st defendant and his first wife, Pounu from the year 1957-58. The said Pounu had died in the year 1967-1968.

(iii) The schedule mentioned properties are the ancestral properties of the plaintiffs and the 1st defendant. After the marriage between the 1st plaintiff and the 1st defendant, the 1st plaintiff's father and the grandfather of the plaintiffs 2 to 5 from out of their own funds had purchased the suit schedule property in the name of the 1st defendant in the year 1975. The marriage expenses were spent by the said Annasamy. The said Annasamy did not have a male grand child. The said Annasamy had one son and 4 daughters including the 1st plaintiff. Except for the 1st plaintiff none of the others had a son. Therefore, the property was purchased in the name of his son-in-law. Till Annasamy was alive, the 1st defendant took care of



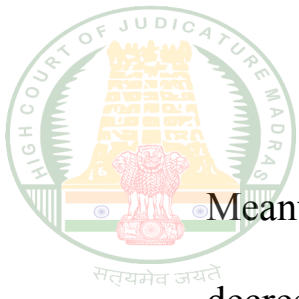
the plaintiffs as a dutiful husband and father. However, on the demise of Annasamy, the attitude of the 1st defendant had undergone a drastic change and he had turned hostile to the plaintiffs for the reasons best known to him. The 1st defendant was attempting to swindle the property and take it out of the reach of the plaintiffs.

(iv) The property in question is the self acquired property of Annasamy who had purchased it from out of his own income, but the Sale Deed was executed in the name of the 1st defendant. At that point in time, the 1st defendant did not have the wherewithal to purchase any property. In fact, the very idea of purchasing the property in the name of the 1st defendant was to ensure that the plaintiff would be taken care of by the 1st defendant. The plaintiffs would submit that they have produced the documents to show their enjoyment of the property even after the same was purchased in the name of the 1st defendant. In fact in a mortgage that was taken, the 1st defendant was the applicant and the plaintiffs 1 and 2 stood as guarantors. In the first week of December 2012, the plaintiffs had seen the total strangers to the suit schedule property and on enquiry, they came to learn that the defendants were negotiating to sell the suit property



to the third parties. The plaintiffs would submit that the defendants have no separate sanctity to alienate the suit schedule properties to third parties without the knowledge and written consent of the plaintiffs. The attempts to mutually settle the dispute could not succeed and therefore, the plaintiffs have come forward with the suit in question.

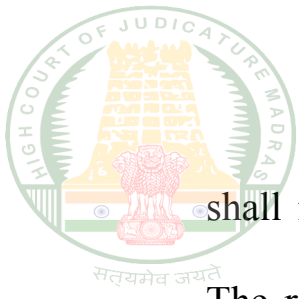
7. The said suit was decreed ex-parte on 13.06.2013 in and by which the respondents 3 and 4 and late C.Govindaraj bound by the decree for partition. The proposed parties had filed a suit O.S.No.6 of 2014 on the file of the Additional District Court, Vellore against the plaintiffs and respondents for declaration of their title to the suit property and for recovery of possession, to declare the collusive pre-decree dated 13.06.2013 obtained in O.S.No.331 of 2012 on the file of the Sub Court, Vellore as null and void and for damages. That apart, the suit O.S.No.331 of 2012 was subsequently re-numbered as O.S.No.196 of 2019. Since an ex-parte decree had been obtained by the respondents 2 to 4 herein and their mother, the application to set aside the said ex-parte decree was filed in I.A.No.85 of 2019. I.A.No.84 of 2019 is filed to implead the respondents 1 and 2 herein as defendants 4 and 5 in the main suit.



Meanwhile, the plaintiffs had filed I.A.No.83 of 2019 for passing a final decree proceedings. The respondents 1 and 2 herein had filed an application in I.A.No.86 of 2019 to implead them as defendants 4 and 5 in the final decree proceedings in I.A.No.101 of 2014 in O.S.No.331 of 2012. These applications, after contest, came to be allowed and aggrieved by the same, the petitioners are before this Court.

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

9. The ex-parte decree that has been obtained by the revision petitioners in O.S.No.331 of 2012, now re-numbered as O.S.No.196 of 2019 is already the subject matter of contest in the suit O.S.No.6 of 2014 on the file of the Additional District Judge, Vellore where the respondents 1 and 2 herein have sought for the relief to declare the decree obtained in O.S.No.331 of 2012 by the defendants 1 to 5 against the defendants 6 to 8 is null and void and not binding on the plaintiffs. Therefore, the learned Judge shall dispose of the suit O.S.No.6 of 2014 uninfluenced by the ex-parte decree that has been granted in favour of the petitioners herein and



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shall independently consider as to whether the decree is a collusive one

The revision petitioners have also instituted final decree proceedings in I.A.No.83 of 2019 in O.S.No.331 of 2021 on the file of the Subordinate Court, Vellore. The said I.A shall be transferred and tried along with O.S.No.6 of 2014. It is needless to state that both parties shall not encumber the property till the disposal of the proceedings.

10. Accordingly, these civil revision petitions are allowed. I.A.Nos.83 to 85 of 2019 are set aside. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,
The Special Sub Court, Vellore



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P.T.ASHA, J.,

srn

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