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C.R.P(PD)No.1061 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.06.2025

CORAM :

THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD) No.1061 of 2021

and

C.M.P.No.8437 of 2021

1.Murugesan

2.Deenadayalan
Srinivasan (died)

3.Palani

4.Usharani

5.S.Kumar

6.S.Mohan

7.N.Latha

8.R.Sumathi

9.Aravind

10.Avinash

11.K.Priya

12.Dinesh Kumar

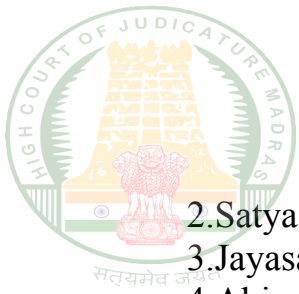
13.Minor Divyasri
represented by her mother and
Guardian K.Priya (11th petitioner)

... Petitioners

(Cause title accepted vide Court order dated
24.03.2021 made in CMP.5634 & 5646 of
2021 in [CRP.SR.19794](#) & 19795 of 2021 (VBSJ))

Vs.

1.Ganesan



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2.Satya
3.Jayasankar
4.Abirami Ammal
Natarajan (died)
Singaravelu (died)
Kathirvelu (died)

5.Arumugam
6.Shanmugam Mudaliar
7.Ramalingam
8.Palani
9.N.Krishnamoorthy
10.Senthil
11.E.Karunakaran

12.E.Kannan
E.Balakrishnan (died)
S.Kumar (died)
S.Karthikeyan (died)

13.S.Bharathi
14.K.Venkatesan
15.K.Murali

16.Senthivel
Panibai (died)

17.Vittabaiammal

18.Ramanibai
Mohanammal (died)

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the Civil Revision Petition and set aside the order and decretal order, dated 19.02.2020 passed in the [I.A.No.432](#) of 2018 in



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[I.A.No.56](#) of 2015 in [O.S.No.120](#) of 1990 pending on the file of Principal Subordinate Judge, Chengalpattu and pass an order for early disposal of the [I.A.No.56](#) of 2015 by strictly following the Rules laid down under the Tamil Nadu (Case Flow Management in Subordinate Courts) Rules, 2007 within a reasonable time stipulated by this Court.

For Petitioners : M/s.Yuvanthika
for R.Manickavel

For Respondents : [Mr.N.Sivaprakash](#) – R1 to R4
RR5 to RR18 NRN

ORDER

Three suits for partition has been filed three decades ago. The suits being [O.S.No.88](#) of 1990, [O.S.No.120](#) of 1990 and [O.S.No.2](#) of 1991. [O.S.No.120](#) of 1990 came to be decreed by the learned Principal Subordinate Judge at Chengalpattu on 30.09.2004. [O.S.No.88](#) of 1990 and [O.S.No.2](#) of 1991 came to be dismissed.

2.The 1st respondent herein, as the appellant, presented two appeals before the learned Principal District Judge in Chengalpattu. They were numbered as [A.S.No.59](#) of 2005 and [A.S.No.60](#) of 2005. They were against the judgment and decree in [O.S.No.2](#) of 1991 and [O.S.No.120](#) of 1990 respectively. One Ramalingam preferred [A.S.No.166](#) of 2005 against



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O.S.No.88 of 1990. Being appeals arising out of a common judgment, the learned Principal District Judge, Chengalpattu clubbed the appeals together and heard them. He dismissed all the appeals on 30.09.2010. Two second appeals in S.A.No.813 of 2011 and S.A.No.814 of 2011 were preferred by the 1st respondent herein. The said second appeals were dismissed by this Court on 05.08.2011.

3.As the preliminary decree had attained a finality, the plaintiffs in O.S.No.120 of 1990 filed an application for passing of final decree before the learned Principal Subordinate Judge in I.A.No.56 of 2015. In the final decree application, certain third parties, filed an application to implead themselves in the final decree. After the receipt of a counter from the plaintiff, the learned trial Judge allowed the application for impleading. The ground on which he has allowed the impleading application is that a Letters of Administration was granted to the "WILL" executed by one Mrs.Lakshmi in O.P.No.817 of 2012 on 28.11.2013. Challenging the same, the plaintiffs are on Revision before me.

4. I heard Ms.Yuanthika for Mr.R.Manickavel for the petitioner and



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Mr.N.Sivaprakash for the Respondents 1 to 4.

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5.The suit for partition has been presented arraying the proper and necessary parties in the year 1990. The suit has been decreed. The First Appeal has been dismissed and the Second Appeal has also been dismissed. The partition suit does not declare the shares of the party in rem. It operates only insofar as parties to the suit are concerned. In case, the proposed parties / the respondents No.1 to 4 have a right in the property, on the strength of the Probate in [O.P.No.817](#) of 2012, their remedy is to file a separate suit and not to intermeddle in the present suit. In case, the final decree Court is permitted to go into the issues that have been raised by respondents No.1 to 4, it will only amount to ripping open the preliminary decree, which has been confirmed till this Court. The second appeal was dismissed on 06.06.2011, two years thereafter, Letters of Administration is said to have been obtained. A Probate Court does not go into question of title all that it declares is that the "WILL" which has been presented before it is true and genuine. If the respondents 1 to 4 have any right, they have to necessarily file a separate suit and claim their right on the strength of the Will. They cannot be permitted to reopen matters which have been settled by this Court. Impleading of the



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respondents No.1 to 4 would embarrass the final decree proceedings, especially when no share has been allotted to them in the preliminary decree.

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6. The Civil Revision Petition is allowed. The order passed by the learned Subordinate Judge in [I.A.No.432](#) of 2018 in [I.A.No.56](#) of 2015 in [O.S.No.120](#) of 1990 dated 19.02.2020 is set aside. [I.A.No.432](#) of 2018 will stand dismissed.

7. The learned Principal Subordinate Judge shall adhere to the directions given by this Court in [C.R.P.No.1080 of 2021](#). After completing the final decree proceedings, the learned Subordinate Judge shall submit a report to this Court regarding its disposal. It is made clear that unnecessary adjournments must not be granted in the final decree petition. The Court should proceed as directed by this Court in the above order. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2025
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kas

Index: Yes / No
Neutral Citation



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To.

1.The Principal Subordinate Judge
Chengalpattu

V.LAKSHMINARAYANAN, J.
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