



CRP.No.791 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.791 of 2025

and

CMP.No.4638 of 2025

Mr.Yasodaran

...Petitioner

Vs.

1.Mrs.V.Nalini

2.Mrs.B.Shakila

3.Mrs.H.Pavalavani

4.Mrs.S.Daisy

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 10.01.2025 made in IA.No.12/2024 in OS.No.3321 of 2019 passed by the VI Additional City Civil Court at Chennai and consequently allow IA.No.12 of 2024 in OS.No.3321 of 2019.

For Petitioner : M/s.A.M.Krishnamoorthy



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ORDER

The Civil Revision Petition has been filed seeking to strike off the plaint in OS.No.3321/2024 on the file of the VI Additional Judge, City Civil Court, Chennai.

2. Suit OS.No.3321 of 2019 has been filed for recovery of possession and for a permanent injunction restraining the defendant from alienating the suit property. The case of the plaintiffs as set out in the plaint is as follows:-

3. It is their case that the suit schedule property belonged to their mother, Thulasi. The land in question is a Gramanatham which was allotted to her share from out of the joint family property. The plaintiffs' mother was in exclusive possession and enjoyment of the same. The 1st plaintiff had joined her mother for putting up the construction as it is now existing in the suit property. Their mother was living in the ground floor and the plaintiffs were in possession and enjoyment of the suit property along with her mother till 2005.



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4. The plaintiffs would submit that after the defendant, who is none else than their brother, got married, he had requested their mother to permit him to stay in the suit property. The plaintiffs' mother had permitted the defendant and his wife Anandi to stay in the first floor of the suit property and the plaintiffs and their mother were enjoying the ground floor. The plaintiffs have been taking care of their mother by living along with her in the suit schedule property till their marriage and thereafter also they have been taking care of her.

5. The plaintiffs would submit that their father Muthusamy worked in the Integral Coach Factory, Chennai. He had died in the year 1983 and on compassionate ground the defendant was appointed in the ICF after obtaining the consent of the plaintiffs and their mother.

6. The plaintiffs would submit that the defendant and his wife were not taking care of their mother despite the fact that not only had he got the



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employment but he was also squatting on the property. Thereafter, the defendant started demanding that his mother settle the suit property in his favour. Therefore, in order to safeguard her property and her personal security, the plaintiffs' mother had settled the suit property in favour of her four daughters namely, the plaintiffs under a registered settlement deed dated 26.06.2013. The plaintiffs had also taken possession of the property and enjoying the same. Thereafter, they had called upon the defendant to vacate the premises which he refused and added to that he was also trying to alienate the property. The plaintiffs had wanted to demolish the existing premises and construct a new house for all of them to reside there. This was also obstructed by the defendant. The defendant had also filed a suit against the plaintiffs in OS.No.4958 of 2013 on the file of the XV Assistant City Civil Court, Chennai which is pending.

7. The plaintiffs would submit that the defendant who has been appointed in the ICF under the compassionate ground with the consent of the plaintiffs and their mother, is now threatening them to vacate the suit



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property. Therefore, the plaintiffs have come forward with the suit in question.

8. The defendant had filed a written statement inter alia contending that his wife is none else than the daughter of his maternal uncle and from the date of her marriage on 27.01.2012 he has been living in the suit premises. The defendant would submit that the suit property was occupied and enjoyed by their father and mother and is not an ancestral property. He would submit that his mother, the plaintiffs and himself were entitled to a 1/6th share each in the suit property. He would also submit that the land was purchased in the year 1989 by his maternal uncle, namely, his wife's father and another uncle J.Sivasankaran. They had constructed the ground floor and thereafter the defendant and his family members started living in the suit property. The taxes relating to the suit property are being paid in the name of the mother by the defendant only.



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9. The defendant would submit that the settlement deed executed by his mother in favour of the plaintiffs in respect of the suit property has been manipulated by the plaintiffs and therefore the settlement deed was not valid. The defendant would submit that he has spent huge sums of money on the suit property. That apart, he has also filed a suit for declaration and injunction in suit OS.No.4858 of 2013 before the XV Assistant Judge, City Civil Court, Chennai. He would also submit that the suit for delivery of possession is not maintainable as the property has to be divided into a 1/6th share each. Therefore, he sought for a dismissal of the suit.

10. Thereafter, the petitioner/defendant had filed an application in IA.No.3/2023 calling upon the plaintiffs to produce certain documents. The said application was dismissed by a docket order dated 20.06.2023 against which the defendant had filed CRP.No.3793/2023 on the file of this Court. By order dated 06.12.2023, the learned Judge had allowed the revision on the ground that the Trial Judge has not given an opportunity to the defendant to put forth his case and had remanded the matter back to the Trial Court.



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Thereafter, the petitioner/defendant has come forward with the impugned petition for rejecting the plaint. This petition has been filed after the cross examination of P.W.1.

11. The grounds on which rejection is sought for are that:-

- (i) The land in question is a Nathan Poromboke Land. Therefore, the Government is a necessary party.
- (ii) The settlement deed has been created without any prior document in title.
- (iii) There is no cause of action.

12. The plaintiffs had filed a counter inter alia contending that the defendant has been filing one application and the other with the intent of protracting the proceedings. In the impugned petition the defendant has not made out any grounds whatsoever for rejecting the plaint. Therefore, they sought to have the same dismissed.



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13. The learned Trial Judge had dismissed IA.No.12 of of 2024 by an order dated 10.01.2025. The certified copy of the said order has not been produced.

14. Heard the counsel for the petitioner/defendant and perused the records.

15. The petitioner/defendant has produced two documents, namely, a settlement deed dated 07.11.2012 and a cancellation deed dated 26.06.2013. However, there is no reference to these two documents either in the written statement or in the application filed for rejecting the plaint. The settlement deed is one executed by the mother in favour her daughters, namely, the plaintiffs on 07.11.2012 which was cancelled on 26.06.2013 and on the very same day once again the property was settled in favour of the plaintiffs.

16. During the arguments these documents were sought to be filed to show that there has been a suppression. However, a perusal of this document



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would clearly show that, as early as in the year 2012, the mother had decided to settle the property in favor of her daughters, the plaintiffs and due to certain discrepancies in the measurements, she had cancelled the initial settlement deed and subsequently executed a fresh settlement deed in favor of the plaintiffs. Therefore, the allegation of suppression appears to be motivated.

17. The argument that the suit for recovery would not lie in respect of the Natham Poramboke Land has to fail in the light of the fact that the defendant has himself filed a suit for declaration and injunction with reference to the very same property. Further, the allegation that the documents which were directed to be produced has not been produced cannot be countenanced in the light of the fact that application I.A.No.3 of 2023 under which the petitioner/defendant has sought for the production of the original documents from the plaintiffs has been remanded back to the Court below for fresh consideration.



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18. Therefore, the petitioner/defendant has not made out any case for rejecting the plaint and the Trial Court has rightly dismissed the application though this Court does not have the benefit of its reasoning.

19. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

20.03.2025

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

To

The VI Additional City Civil Court at Chennai



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