



WEB COPY



Civil Revision Petition No. 1038 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.PD.No.1038 of 2025
and C.M.P.No.5995 of 2025

Ramamoorthy Reddiar

... Petitioner

Vs

Kannan (deceased)

1. Ashok Kumar
2. Shantha
3. G. Vijayalakshmi
4. S.Malini

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Fair and Decretal Order dated 03.02.2025 made in I.A.No.304 of 2024 in O.S.No.110 of 2015 on the file of the Additional District Munsif, Villupuram .

For Petitioners

: Mr.C.Munusamy

ORDER

Challenging the order passed in I.A.No.304 of 2024 in O.S.110 of 2015 by the learned Additional District Munsif, Villupuram, the 3rd defendant is before this Court.



WEB COPY

2. The short facts which led to the filing of this C.R.P herein below set out and the parties are hereinafter referred to as the same ranking before the trial Court.

(i) The plaintiffs/respondents 3 and 4 herein had filed the suit O.S.No.110 of 2015 on the file of the aforesaid Court seeking the relief of declaration that the "A" schedule property belongs to the plaintiffs and for consequential injunction and to declare the cancellation of settlement deeds executed by the 1st defendant as null and void.

(ii) The case of the plaintiffs is that the "A" schedule property is the ancestral property of the 1st defendant's father, Govindasamy who was enjoying the same along with his wife, Alamelu. The revenue records also stood in their names. The deceased 1st defendant is the father of the plaintiffs. The deceased 1st defendant's father, Govindasamy on 18.11.2008 had executed a settlement deed in respect of the suit properties as well as other properties. Govindasamy had settled the property on the deceased 1st defendant and his brother Jayapal.



It is their further case that there was an oral partition between the 1st defendant and his brother, Jayapal in and by which the properties had also been partitioned amongst the two, each taking an equal 1/2 share. On 10.11.2010, a registered settlement deed was executed in favour of plaintiffs 3 and 4. The settlement deed was accepted and possession was also taken over by then.

(iii) The 1st defendant had executed a Settlement Deed in favour of the plaintiffs under Document No.3024 of 2010 with reference to the Item Nos 2 to 5 of the "A" schedule properties. Pursuant thereto, the plaintiffs became the absolute owner of the suit properties. The revenue records have also been mutated in their names.

(iv) While so on 15.02.2015, the defendants had attempted to trespass and started to interfere with the possession of the suit properties. When questioned, it appears that the 1st defendant, without notice to the plaintiffs, had cancelled the settlement deeds dated 15.10.2013 registered as Document Nos.3101 and 3102 of 2013 and the



1st defendant had thereafter sold the properties to the defendants 2 and 3.

Therefore, they have come forward with the suit in question.

3. When the suit was posted for further defendants' side oral evidence, the 3rd defendant had come forward with the application seeking to summon the Tahsildar, Villupuram to adduce the evidence on his behalf and produce the revenue records relating to the suit properties. This application has been dismissed by the learned Additional District Munsif, Villupuram insofar as it related to the summoning of the Tahsildar. However, the learned Judge had permitted the request of the production of the revenue records. Aggrieved by the same, the petitioner/3rd defendant is before this Court.

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

5. The suit is one for declaration and injunction. The grievance of the petitioner/3rd defendant is that he is in possession and enjoyment of the suit property and therefore, it is essential to examine the Tahsildar.



Civil Revision Petition No. 1038 of 2025

This argument cannot be countenanced for the simple reason that the suit is one for declaring title and for declaring certain title deeds as null and void. In the light of the fact that the petitioner and respondents are claiming each other to be in possession and the same has to be proved by them by adducing adequate evidence. The revenue records would be one such piece of evidence. The learned Judge had allowed the application insofar as it related to the production of the documents and rejected the application with reference to the summoning of the Tahsildar as the same is not required. The affidavit filed in support of the application which is the subject matter of this Civil Revision Petition does not set out any reason whatsoever to justify the request. The learned Judge has rightly allowed the application in part and I see no reason to interfere with the said order. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

The Additional District Munsif, Villupuram.



WEB COPY



Civil Revision Petition No. 1038 of 2025

P.T.ASHA, J.,

srn

C.R.P.PD.No.1038 of 2025
and C.M.P.No.5995 of 2025

18.03.2025