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C.R.P.No.1756 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.No.1756 of 2025
and CMP.No.10141 of 2025

A.K.Rangasamy @ Brahma Sri
Rangasamy Paramahamsar
Rep by his Power Agent R.Sivanandhan ... Petitioner / Plaintiff

[Cause title accepted vide Court order dated
03.04.2025 made in CMP.No.7944 of 2025
in CRP.SR.No.40049 of 2025]

Vs.

1.Marappan
2.Kalichamy
3.Prakash
4.Pechiammal ... Respondents / Defendants

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 18.11.2024 made in I.A.No.8 of 2024 in O.S.No.30 of 2018 on the file of I Additional Sub Court, Coimbatore, by allowing this civil revision petition.



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For Petitioner : Mr.V.Anandamoorthy

For Respondents : Mr.S.Sriram for R1 to R4

ORDER

Challenging the dismissal of his application for withdrawing the suit O.S.No.30 of 2018, with liberty to file a fresh suit, the plaintiff is before this Court.

2. The plaintiff had filed a suit O.S.No.30 of 2018 on the file of the I Additional Sub Court, Coimbatore, seeking an injunction against the defendants from in any manner interfering with the peaceful possession and enjoyment of the suit property. It is the case of the plaintiff that he had joined the Swami Anantha Anand Paramahamsar Ashram which propagates yoga for world peace and harmony, and at present he is residing at U.S.A. He owns a land measuring an extent of 2.00 acres comprised in Sy.No.513/4 of Alandurai Village, by virtue of a sale deed dated 29.05.1964. The lands have been cultivated by the plaintiff, who also dug a borewell in the said lands. The patta in respect of the lands in patta No.366 stands in the name of the plaintiff.



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3. The plaintiff would submit that the property which is situated to the south of suit property in Sy.No.516, originally belonged to M.K.Arumugam and his sons namely Duraisamy and Chinnadurai. They had entered into a partition deed on 12.07.1963, in and by which, the land owned by Arumugam was divided among himself and his two sons. Apart from the lands in Sy.No.516, Arumugam owned a vast extent of property in Alandurai Village. The land that was owned and possessed by Arumugam in Sy.No.516, measures a total extent of 14.37 acres. A family partition took place and by virtue of the partition deed, lands measuring an extent of 8.81 acres on the northern extremity was allotted to Chinnadurai and the remaining land measuring an extent of 5.56 acres was allotted to Duraisamy. Chinnadurai was cultivating the lands allotted to him. The said Chinnadurai's property lies on the southern side of the plaintiff's property in Sy.No.513/4.

4. Chinnadurai died leaving behind a son and a daughter viz., M.C.Raja and M.C.Bhuvaneswari. After the demise of their father, they both offered to sell 2.00 acres of their lands, which abuts the southern



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portion of the plaintiff's land in Sy.No.513/4, and the plaintiff also agreed to purchase the same. Accordingly, a sale deed dated 31.10.1994 was executed by the said M.C.Raja and M.C.Bhuvaneswari in favour of the plaintiff, after receiving a valid sale consideration. The plaintiff has also taken possession of the said land, and it is this 2.00 acres of land which is described as 'suit schedule property'.

5. The plaintiff would submit that the suit property is bounded on the eastern side by Pallavaari lands and to level the same, he had spent huge sums of money. The plaintiff would contend at the time of purchase, the suit property was a fallow land, which was later converted into a cultivable land, by spending huge sums of money. The plaintiff would submit the sub-division of the property had taken place and the land abutting south of Survey No.513/4 was assigned Sy.No.516/3A and the property allotted to M.C.Chinnadurai was assigned Sy.No.516/2. The plaintiff would submit that he had purchased the property in Sy.No.516/2, whereas he is in possession of lands comprised in Sy.No.516/3A. The description of the property as per the sale deed dated 31.10.1994, is land measuring 2.00 acres situated to the south of the land owned and possessed by the plaintiff



under the sale deed dated 29.05.1964.

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6. The plaintiff would plead that a mistake had occurred while updating the Revenue Register. The extract of the Re-survey register shows that lands in Sy.No.516/3A are owned and possessed by Arukutty Gounder @ Aruchamy Gounder and his legal heirs namely Chellammal, Kaliappan, Velmuthu and others (vide Patta No.1088) and that the lands in Sy.No.516/2 stands in the name of plaintiff. This mistake in the revenue register was noticed by the plaintiff as well as by the legal heirs of Arukutty Gounder , and accordingly, a mutual 'No objection affidavit' was executed by the legal heirs of Arukutty Gounder and the plaintiff. The legal heirs of Arukutty Gounder had admitted the plaintiff's continuous possession and enjoyment of the suit property in Sy.No.516/3A. But the defendants, who had no right over the property, by reason of this mistake, claimed right to the property in Sy.No.516/3A.

7. The plaintiff would also plead that he had put up a construction in a portion of the suit property and is running a Yoga Centre, where he also provides free sidda and native medicine treatment to the underprivileged.



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On 03.01.2018, when the plaintiff attempted to plough his lands, the defendants have objected to it. Now there are standing crops in the suit property. The plaintiff who is now residing at U.S.A, has appointed a Power Agent to take care of the suit property. Apprehending that the defendants and their henchmen would trespass into the suit property, the plaintiff has come forward with the suit in question.

8. The defendants 3 and 4 are husband and wife, and defendants 1 and 2 are their sons. The defendants have filed their written statement denying the allegations contained in the plaint. They would submit that the claim of the plaintiff that the land in S.F.No.516/3A belonged to him and that the 'No objection affidavit' executed by the legal heirs of Arukutty Gounder in favour of the plaintiff are all false. The defendants would plead that the total extent of land in S.F.No.516/3A measures 5.34 acres, out of which, 4.06 acres was owned by the defendant's family and the remaining 1.28 acres belongs to Periyammal and others. The revenue records of S.F.No.516/3A clearly discloses this fact. Therefore, the defendants have categorically stated that the lands comprised in Sy.No.516/3A did not belong to the plaintiff.



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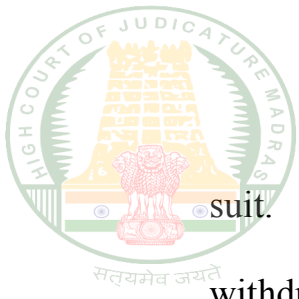
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9. Thereafter, the plaintiff has come forward with an application in I.A.No.8 of 2024 to withdraw the present suit with liberty to file a fresh suit.

The reasons for filing the above application are as follows :

- (a) The suit has been filed without impleading the proper parties, which includes the vendors of the petitioner/plaintiff, which are formal defects that would affect the final adjudication.
- (b) The affidavit would further state that the present suit is not properly filed and has formal defects like non-joinder of necessary parties, omission to seek appropriate relief citing real disputes and question involved in the subject matter of the suit and the description of the suit property.

10. The said application has been opposed by the defendants *inter alia* contending that the plaintiff is very much aware that neither he nor his vendor has any title or interest over the suit property. The suit is nothing but an attempt to grab the property of the defendants. The affidavit filed by the petitioner does not give rise to change of circumstances or facts after the filing of the suit, that warrants the plaintiff to file a fresh and comprehensive



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suit. The defendants would submit that the plaintiff cannot be allowed to withdraw the suit and file a fresh suit on the same cause of action. It is also pleaded in the counter of the defendants that there are no formal defects and in fact one of the reasons seeking to withdraw the suit with liberty to file a fresh suit on the same cause of action, is on account of the fact the earlier application filed by the plaintiffs in I.A.No.6 of 2023 to implead his vendors as parties to the suit, has been dismissed by the Court below on 09.11.2023, however this order of dismissal has not been put to challenge by the plaintiff. Therefore, the only intention of the plaintiff is to protract the trial of the suit, and hence, seeks dismissal of the application in I.A.No.8 of 2024.

11. The learned I Additional Sub Judge, Coimbatore, by his order dated 18.11.2024, has dismissed the said application. The learned Judge has observed that after the evidence has been closed in the suit, the plaintiff has been moving one application after the another, is nothing but an attempt to protract the proceedings. Therefore, the learned Judge has proceeded to dismiss the said I.A., against which, the petitioner/plaintiff is before this Court.



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12. Heard the learned counsel on either side.

13. A mere perusal of the affidavit which is filed in support of the impugned application would set out the reasons as to why this application is being moved by the revision petitioner/plaintiff. In paragraph No.6, the petitioner would submit as follows :

"6. The petitioner submits that as the present suit is filed without impleading the vendors of the petitioner as parties to the proceedings and without seeking the proper relief against them, there are formal defects by which there may not be a full adjudication and determination of all disputes and question involved in the matter in issue. Further, by these formal defects, all issues in question may not reach its finality. As such, in the interest of justice, a comprehensive suit to obtain appropriate relief relating to the subject has to be filed against all the defendants herein, vendors of the petitioner and government authorities if necessary."

Therefore, the petitioner would submit that the suit is bad for non-joinder of necessary parties, omitted to seek proper relief etc., and as a result of which, the real question involved in the suit, as also the title and interest of the suit property cannot be concluded.



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14. The earlier application in I.A.No.6 of 2023 filed by the revision petitioner / plaintiff seeking to implead the vendors as a party to the proceedings has been dismissed by the Court below in the year 2011, against which, no revision has been preferred by the plaintiff and that he had allowed the same to attain finality. This apart, that the revision petitioner/plaintiff does not have right to the suit property has been set out by the defendants in the written statement, which has been filed as early as on 09.07.2018. The plaintiff who had taken out the present interlocutory application for impleading his vendors and to permit his Power Agent to represent him, has not taken any steps to amend the suit by incorporating the relief which he intends to do now, as soon as the defendants have filed their written statement, claiming absolute right to the suit property in question. The plaintiff has entered the witness box as P.W.1 and has marked the documents, but has not submitted himself for cross-examination. Therefore, it is clear that the filing of the present application by the revision petitioner seeking withdrawal of the suit with liberty on the grounds non-joinder of necessary parties and to amend the relief at this stage, that too after a period of six years, is to circumvent the order dismissing his



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application in I.A.No.6 of 2023. The trial Court has rightly rejected the same and I see no reasons to interfere with the same.

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15. The civil revision petition is accordingly dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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To:

- 1.The I Additional Sub Judge
Coimbatore.
- 2.The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J,

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