



WEB COPY

CRP. No.1428 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP. No.1428 of 2025

and CMP. No.8418 of 2025

Bakkiam

Petitioner

Vs

Poovayammal (Died)

1.S.Neela

2.Mariappan

3.Kannan

4.Govindammal

5.Akilandam

6.Abirami

7.Shanthi

8.Minor Sharmila

9.Minor Jeevitha

(Respondents 8 and 9 are represented by
Natural Guardian Mother Shanthi, the 7th respondent) Respondents

PRAYER: This Civil Revision Petition under Article 227 of the
Constitution of India, to set aside the fair and final orders dated
20.02.2025 passed in I.A. No.14 of 2025 in O.S. No.265 of 2013 on the
file of I Additional Subordinate Judge, Salem and allow the above CRP.

For Petitioner : Ms.D.Jeevitha for
Mr.R.Nalliyappan

For Respondents : No Appearance

ORDER



The learned counsel for the petitioner preferred this Civil Revision Petition challenging the order in I.A. No.14 of 2025 in O.S.

WEB COPY No.265 of 2013 before the I Additional Sub Judge, Salem.

2. Heard Ms.D.Jeevitha, learned counsel for Mr.R.Nalliyaappan, learned counsel for the petitioner.

3. An Application was taken out under Section 60 of the Bharathiya Sakshya Adhiniyam 2023, to mark the Photostat copy of the partition deed dated 30.01.1989, which is admittedly, unregistered and also insufficiently stamped. The Trial Court finding that the document required registration and on this ground, dismissed the said Application.

4. The learned counsel for the petitioner, Ms.Jeevitha would submit that the Trial Court has committed an error in rejecting the Application. She would rely on the settlement deeds dated 30.06.2010 and 24.10.2011. In fact, the settlement deed dated 30.06.2010 has been marked as Ex.B1. In both the settlement deeds, there is a reference to the partition deed dated 30.01.1989. In the settlement deed marked as Ex.B1, there is also a covenant that the original partition deed has been handed over to the 8th defendant. In the other settlement deed as well



there is a reference to the said partition deed dated 30.01.1989 and also a covenant that the Photostat copy of the partition deed dated 30.01.1989 has been handed over to the settlee viz., the second defendant.

5. The learned counsel for the petitioner would submit that the partition deed was sought to be marked only for collateral purposes and to establish that certain properties have not been included in the said partition deed which are the suit properties in the suit for partition.

6. I have heard the learned counsel for the petitioner and also gone through the materials available on record.

7. Under Section 17(1)(b) of the Registration Act, 1908, (in short 'Act') no doubt, the partition deed is inadmissible in evidence. However, an exception is carved out under Section 49 of Act that the document can be marked for collateral purposes or in suit for specific performance, if the document is a sale agreement. In the present case, the petitioner is the plaintiff who has approached the Court seeking partition and separate possession of certain properties. In order to substantiate the case of the plaintiff that the said properties are available for partition, the partition deed dated 30.01.1989 is sought to be marked. In fact, the petitioner has



specifically contended the original of the said partition deed is available with the 8th defendant. Unfortunately, despite a specific covenant in the settlement deed dated 30.06.2010, the 8th defendant has chosen to deny the same. The notice to produce the said partition deed was also given by the petitioner/plaintiff.

8. The partition deed dated 30.01.1989, though unregistered and requires registration under Section 17(1)(b) of the Registration Act, can certainly be received for collateral purposes for establishing the availability of the suit properties for partition. It would fall within the phrase collateral purposes, as no right is claimed by the petitioner under the said unregistered partition deed. However, even if the document can be received for collateral purposes, the specific case of the petitioner is that the original of the said partition deed is with the 8th defendant. The procedure contemplated under the Bharathiya Sakshya Adhiniyam 2023 has also been followed by issuing a notice to produce the said original. The said request has not been complied by the 8th defendant and only under such circumstances, the Photostat copy was sought to be marked. The Trial Court ought to have allowed the Application filed by the petitioner. Hence, the impugned order dated 20.02.2025 passed in I.A. No.14 of 2025 in O.S. No.265 of 2013 by the I Additional Subordinate



Judge, Salem is set aside and the petitioner is permitted to mark the Photostat copy of the unregistered partition deed.

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9. Accordingly, this Civil Revision Petition is allowed. Connected Miscellaneous Petition is closed. No costs.

12.06.2025

rkp
Index : Yes / No
Internet : Yes / No

To:

The I Additional Subordinate Judge, Salem.



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P.B.BALAJI, J.,

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