



THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 28.08.2025

Order pronounced on : 12.09.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.3095 of 2025
& CMP.No.17322 of 2025

1.S.Dakshinamoorthy
2.Poomagal

..Petitioners

Vs.

1.Santhanam @ Sandana Mary
2.Gowri
3.Raju
4.Panneerselvam
5.Saravanan

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.91 of 2024 on the file of the Principal District Judge, Udagamandalam.

For Petitioners : Mr.P.Saravana Sowmiyan

For Respondents : Ms.N.S.Tanvi
for Mrs.D.Nagasaila for R1
No appearance for RR2 to 5



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ORDER

The revision petitioners, who are defendants 1 and 2 in O.S.No.91 of 2024, before the learned Principal District Judge, Uthagamandalam, have filed the present revision petition to strike off the said plaint in O.S.No.91 of 2024.

2.I have heard Mr.Saravana Sowmiyan, learned counsel for the petitioners and Ms.N.S.Tanvi for Mrs.D.Nagasaila, learned counsel for the 1st respondent.

3.Mr.P.Saravana Sowmiyan, learned counsel for the petitioners would invite my attention to the suit filed for partition and declaration regarding general power of attorney executed by the plaintiff and the sale deed, which came to be executed in pursuance of the said general power of attorney as null and void. The learned counsel for the petitioners would state that the plaintiff has admitted to execution of the general power of attorney and it is a registered document. Therefore, the plaintiff cannot feign ignorance of the powers conferred on the power agent and the said power of attorney was executed in respect of 75 Cents and based on the said power of attorney, the 1st revision



petitioner has executed a sale deed in favour of the 2nd revision petitioner and the same was also registered on 29.09.2010.

4.The learned counsel for the petitioners would take me through the plaint in O.S.No.206 of 2010, which was a suit for specific performance, where the plaintiff has supported the case of the revision petitioners. The learned counsel would therefore state that the plaintiff has suppressed the earlier proceedings and has challenged the documents of the years 2008 and 2010, belatedly, that too, in 2024. He would therefore state that the suit is a clear abuse of process and brought about by clever drafting in order to get over limitation. The learned counsel would therefore state that the plaint is liable to be struck off.

5.Per contra, Ms.Tanvi, learned counsel for the 1st respondent, taking me through the plaint allegations, would contend that the plaintiff is an illiterate woman and the property belonged to her husband, Rajendran and pursuant to his demise, the petitioner and her mother-in-law, Gowri, are entitled to 50% share each and only in order to declare the said 50% share of the 1st respondent, the suit for partition has been filed. In fact, it is the specific case of the 1st



respondent that she approached the 1st petitioner, who is an advocate for filing the suit for partition against her mother-in-law and that the said advocate had assured the plaintiff to do the needful and believing that she was signing necessary papers in connection with the said suit for partition, the plaintiff claims that the 1st petitioner has brought about a registered power of attorney, based on which, the property has been sold and the rights of the plaintiff has been snatched away totally.

6.It is also brought to my notice by the learned counsel for the 1st respondent that as late as 2022, the 1st petitioner has given a sum of Rs.2,90,000/- stating that it is towards the settlement of the jewellery amount and that it is received from the mother-in-law. It is therefore the case of the plaintiff that she was all along under the impression that the 1st petitioner was prosecuting the suit for partition diligently.

7.I find from the plaint that the plaintiff has specifically pleaded that her first two husbands died and the plaintiff married for a third time and only when the third husband was informed about the legal proceedings, and the third husband took steps to find out the fate of the suit for partition, it came to light



that the first petitioner has played a fraud upon the plaintiff, by bringing about a power of attorney, taking advantage of the illiteracy of the plaintiff and that he has proceeded to execute and register a Sale Deed in favour of his wife, the 2nd revision petitioner.

8.It is therefore contended by Ms.Tanvi, learned counsel for the 1st respondent that the plaintiff has elaborated the circumstances, under which the documents came to be executed and further the power of attorney and sale deed has been executed as if the plaintiff is the sole and absolute owner of the property whereas, her mother-in-law, Gowri, is entitled to 50%. Therefore, she would state that it is a matter for trial and the plaint cannot be summarily struck off, invoking the extraordinary power under Article 227 of the Constitution of India.

9.I have carefully considered the submissions advanced by the learned counsel on either side and I have gone through the records.

10.The ground on which, the plaint is sought to be struck off invoking Article 227 of the Constitution of India, is that the plaint is a gross abuse of



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process and having voluntarily executed a general power of attorney, based on which, the property has been dealt with, even as early as in 2010, the present suit has been filed at the instigation of the present husband of the plaintiff, only in order to arm twist the revision petitioners, to pay a ransom to the plaintiff and her husband. No doubt, the suit has been filed belatedly, after a lapse of 14 years from the date of execution of the sale deed by the 1st petitioner in favour of the 2nd petitioner.

11. The specific case of the plaintiff is that the 1st petitioner is a practicing advocate, who was approached by the plaintiff, for filing a suit for partition and taking advantage of the illiteracy of the plaintiff, the 1st plaintiff has played a fraud and got a power of attorney executed and registered and conveyed the property based on the said power of attorney to his own wife. The plaintiff also claims that she is entitled to only 50% of the property and there is a claim for partition in the suit as well. I find from the plaint averments and allegations that the plaintiff has made out a case for trial. In any event, this is not even an application for rejection of the plaint under Order VII Rule 11 of CPC.

12. If at all the petitioners are contending or claiming that the suit is barred under law, namely the law of limitation or such other grounds, that may



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be available to them, then it would have been appropriate for the petitioners to invoke the provisions of Order VII Rule 11 of CPC. I am not able to convince myself with the arguments of Mr.Saravana Sowmiyan that the suit is a sheer abuse of process of law.

13.On a reading of the entire plaint, it clearly evidences the fact that the plaintiff is aggrieved by the fraud played by her advocate, the 1st petitioner. The payment of Rs.2,90,000/- in April 2022, as if, it is a share of the jewellery amount also raises serious suspicion in the mind of the Court. If, according to the petitioners, the 1st petitioner never acted as a lawyer for the plaintiff and no suit was filed for partition and that it is a figment of imagination of the plaintiff, then there was no necessity, that too, as late as in 2022 to hand over a sum of Rs.2,90,000/-, stating that it is towards share of the plaintiff in the jewellery amount and that it has been received from her mother-in-law. Though Mr.P.Saravana Sowmiyan, learned counsel for the petitioner contended that the said amount was paid only because of better title and the mother of the plaintiff also signed as one of the attesting witnesses to the Sale Deed, I am unable to countenance the said submission for the simple reason that this again would be a matter for evidence as to whether the attesting witness had any animus and was aware of the contents of the documents. Presumption cannot be drawn at



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this stage, that too, in a revision, seeking rejection of the plaint under Article 227 of Constitution of India. In the light of the above, I do not see how the plaint can be termed as an abuse of process, warranting striking off under Article 227 of the Constitution of India.

14.The learned counsel for the 1st respondent has also relied on the decisions in *K.Valarmathi vs. Kumaresan*, reported in 2025 INSC 606 and *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others vs Tuticorin Educational Society and others*, reported in (2019) 9 SCC 538, where the Honourable Supreme Court has held that the High Courts, as a matter of self-imposed restriction, should refrain from interfering in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

15.Even otherwise, on a reading of the plaint, I do not see that the petitioners have made out an extraordinary case for striking off the plaint under Article 227 of the Constitution of India. The parties would have to necessarily undergo the rigors of trial and establish their respective contentions. In the light of the above, I am not inclined to strike off the plaint.



16. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

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12.09.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Principal District Judge, Udagamandalam.



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P.B.BALAJI.J,

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Pre-delivery order made in
CRP.No.3095 of 2025
& CMP.No.17322 of 2025

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