



C.R.P.(NPD)NO.1580 OF 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10/10/2025

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THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(NPD)NO.1580 OF 2020
and C.M.P.NO.9612 OF 2020

B.Yamunarani ... Petitioner/ Petitioner/
4th Defendant

Vs.

1.P.Senthil
2.P.Suja
3.P.Kavitha ... Respondents/
Respondents 1 to 3/
Plaintiffs

4.Palani
5.Gunasekaran
6.Samraj
(Respondents 4 to 6 remained exparte in Suit
and I.A.No.201 of 2018, so notice to 4 to 6 may
be dispensed with)

... Respondents /
Respondents 4 to 6/
Defendants 1 to 3

PRAYER : Civil Revision Petition filed under Article 227 of the
Constitution of India, 1950, against the Order and Decree made in
I.A.No.201 of 2018 in O.S.No.135 of 2014 on the file of the Subordinate
Judge, Gudiyattam, Vellore District, dated June 24, 2020.



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C.R.P.(NPD) NO.1580 OF 2020

For Petitioner : Mr.K.A.Ravindran
For Respondents : R1 to R3– No appearance
R4 to R6 notice dispensed with by
this order

ORDER

This Civil Revision Petition is filed to set aside the order dated June 24, 2020 passed in I.A.No.201 of 2018 in O.S.No.135 of 2014 by the learned Subordinate Judge, Gudiyattam, Vellore District.

2.The respondents 1 to 3 herein are the plaintiffs, the respondents 4 to 6 herein are the defendants 1 to 3 and the Revision Petitioner herein is the fourth defendant in O.S.No.135 of 2014 on the file of the Subordinate Judge, Gudiyattam, Vellore District (hereinafter referred to as 'Trial Court').

3.For the sake of convenience, the parties will be referred to as per their array in the Original Suit.

4.The plaintiffs have filed a suit for partition. The case of the plaintiffs is that the first defendant is the father of the plaintiff. The suit property was purchased by their mother, viz., Banumathi vide registered



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sale deed dated July 17, 1985. The plaintiff's mother, Banumathi died intestate on December 06, 1987 leaving behind the plaintiffs and the first defendant as her legal heirs to succeed her estate. The plaintiffs and the first defendant are the co-owners and the co-sharers in respect of the suit property. Thus, the plaintiffs and the first defendant are entitled to each 1/4 share in the suit property. With a view to defeat and defraud the plaintiffs, the first defendant executed a sale deed on October 9, 2003 in favour of the second defendant in regard to entire extent of the suit property; in turn, the second defendant executed a sale deed on June 13, 2011 in favour of the third defendant in turn, the third defendant executed a sale deed on August 27, 2014 in favour of the fourth defendant/Revision Petitioner. The aforesaid sale deeds would not bind the plaintiffs. Hence the suit.

5.The defendants 1 to 3 did not file written statement. The case of the fourth defendant is that the plaintiffs have already relinquished their rights in favour of their father and he sold the suit property to the second defendant. Thereafter, the second defendant sold the same to the third defendant and the same was sold to the fourth defendant vide sale deed dated August 27, 2014. The fourth defendant is a *bonafide* purchaser with



value without notice. Accordingly, the fourth defendant prayed to dismiss the suit.

6. Based on the pleadings, the Trial Court framed issues and posted the matter for trial. When the case was posted for cross-examination of P.W.1 on June 13, 2017, the fourth defendant did not cross-examine the witnesses. Hence, the fourth defendant was called absent and set *exparte* and an *exparte* preliminary decree was passed in favour of the plaintiffs on June 30, 2017.

7. The fourth defendant filed a petition under Order IX Rule 13 of the Code of Civil Procedure, 1908, with a petition under Section 5 of the Limitation Act to condone the delay of 359 days in filing the petition to set aside the *exparte* decree. The said petition was numbered as I.A.No.201 of 2018.

8. The fourth defendant, in her affidavit, stated that she had gone to Kolhapur in the month of May 2017 and returned in the month of July 2018 only. Further she averred that, she shifted her residence from Pernambut to Gowrapet and resided there. When the case was posted on



June 13, 2017 for cross-examination of P.W.1, the Revision Petitioner did not know about the posting of the case and hence, she could not instruct her counsel to cross-examine the plaintiff's side witness (i.e.P.W.1). Further averred that she came to know about the *exparte* decree passed against her only after receiving the notice in final decree proceedings. Hence, she prayed to condone the aforesaid delay of 359 days.

9.The said petition was strongly opposed by the plaintiffs by stating that the petitioner entered appearance and filed written statement. The averments stated in the affidavit are not true. Only with a view to delay the proceedings, the fourth defendant allowed the suit to be decreed *exparte* and subsequently filed a petition to set aside the decree. Hence, they prayed to dismiss the petition.

10.After hearing both sides, the Trial Court dismissed the petition by stating that the reasons stated in the affidavit are not satisfied.

11.Feeing aggrieved with the order, the fourth defendant preferred this Civil Revision Petition.



WEB COPY 12.Despite notices, respondents 1 to 3 did not appear in this Civil Revision Petition. The presence of respondents 4 to 6 is not necessary to decide this Civil Revision Petition. Hence, this Court dispense the notice to respondents 4 to 6.

13.Learned counsel appearing for the Revision Petitioner submits that due to the reasons assigned in the affidavit, the Revision Petitioner/fourth defendant could not instruct her counsel and hence, the suit was decreed *exparte*. Further submits that the first defendant executed a sale deed in favour of the second defendant in the year 2003, in turn, the second defendant executed a sale deed in favour of the third defendant in the year 2011 in turn, the third defendant executed a sale deed in favour of the fourth defendant in the year 2014. The Revision Petitioner/fourth defendant is a *bonafide* purchaser with value. Further, the plaintiffs and the first defendant colluded together and filed this suit only to get unjust enrichment from the fourth defendant if possible. He further submits that, with a view to decide the matter on merits, one more opportunity may be granted to the Revision Petitioner/fourth defendant to conduct the case.



C.R.P.(NPD)NO.1580 OF 2020

WEB COPY 14.This Court has perused the plaint and its averments and has carefully considered the submissions made by the learned counsel appearing for the Revision Petitioner.

15.Considering the facts and circumstances of the case, with a view to adhere the principles of natural justice fully, with a view to decide the matter on merits and in the interest of justice, this Court is of the view that this petition may be allowed subject to cost of Rs.15,000/-.

16.Accordingly, this Civil Revision Petition is allowed subject to a condition that the Revision Petitioner/fourth defendant shall pay a sum of Rs.15,000/- to the plaintiffs by way of a deposit before the Trial Court on or before 31.10.2025. Failing which, the Civil Revision Petition shall stand dismissed. Consequently, Connected Civil Miscellaneous Petition is closed. Call on 07.11.2025.

17.List the matter on 07.11.2025.

10/10/2025

Page No. 7 of 10



C.R.P.(NPD)NO.1580 OF 2020

Index : Yes

Speaking Order : Yes

Neutral Citation : Yes

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Note: Issue order copy on 14.10.2025



C.R.P.(NPD)NO.1580 OF 2020

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To
The Subordinate Judge,
Gudiyattam,
Vellore District.



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C.R.P.(NPD)NO.1580 OF 2020

R. SAKTHIVEL, J.

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C.R.P.(NPD)NO.1580 OF 2020

10/10/2025

Page No.10 of 10