



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATE : 21.01.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

C.M.A. NO.1280 OF 2024

AND

C.R.P. (PD) NO. 2277 OF 2024

AND

C.M.P. NOS. 11520, 11430 & 11997 OF 2024

S.Ramesh

.. Appellant in the appeal &
Petitioner in revision ptn.

- Vs -

1. T.G.Suresh Babu

.. Respondent in CMA 1280/24 &
R-1 in CRP (PD) 2277/2024

2. T.G.Ramesh Babu

3. Ramesh Balaji

4. R.Karthik

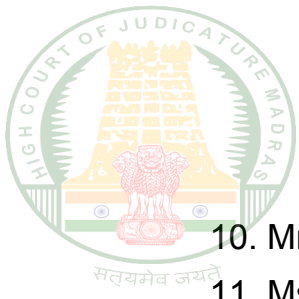
5. R.Dipakh

6. Mrs. S.Chitra

7. T.S.Vikram

8. Mrs. E.Sumathi

9. E.Sushilkumar



WEB COPY

10. Mrs. T.G.Renuka Devi

11. Ms. Shailaja Sridhar

12. S.Yogaraja

13. The Sub Registrar

Sub Registration Office

Sriperumbudur

Kancheepuram Dt. PIN 602 105.

14. The District Registrar

Chengalpattu District Registrar Office

Chengalpattu.

15. The Inspector General of Registration

Santhome High Road, Chennai 600 028.

16. The Tahsildar

Sriperumbudur Taluk

Kancheepuram District, PIN 602 105.

17. The Revenue Divisional Officer

Sriperumbudur Division, Sriperumbudur

Kancheepuram Dt. PIN 602 105.

18. The District Collector

Kancheepuram District

Kancheepuram.



WEB COPY

19. The Executive Officer
Sriperumbudur Town Panchayat
Sriperumbudur Taluk
Kancheepuram District.

20. The Director
Kancheepuram Town & Country
Planning Office
No.33/J, Kotrampalayam Street
Opp. To Labour Court
Chinna Kancheepuram
Ennaikaran Street, Kancheepuram
Tamil Nadu 631 501.

21. The Director of Town Panchayat
No.75, Santhome High Road
M.R.C. Nagar, Raja Annamalaipuram
Chennai 600 028.

.. Respondents in CRP 2277/14

Civil Miscellaneous Appeal filed under Order 41 Rule 1 of the Code of Civil Procedure praying to set aside the order passed by the District Sessions Judge, District Court No.II, Kancheepuram in I.A. No.4 of 2024 in O.S. No.154 of 2024 dated 17.5.2024 on the file of Vacation Judge at Kancheepuram (in the court of the District Munsif at Sriperumbudur, Kancheepuram District).



WEB COPY

Civil Revision Petition filed under Article 227 of the Constitution of India praying this Court to strike off the plaint in Old O.S. No.154 of 2024 renumbered as O.S. No.114 of 2024 in the Court of Vacation Judge at Kancheepuram (in the court of the District Munsif at Sriperumbudur, Kancheepuram District).

For Appellant / : Mr. K.Krishnan
Petitioner

For Respondents : Mr. D.Gopal, GA for RR-13
to 21

Mr. K.Selvamani for RR-2 to
12

Mr. Om Prakash, SC for

Mr. K.Bommuraj for 1

COMMON JUDGMENT

While the appeal has been filed to set aside the interim order passed in the interim application, which has been filed in the suit, the revision petition has been filed to strike off the plaint in O.S. No.114 of 2024. Since



both the matters are interconnected with each other, they are taken up together and disposed of by this common judgment.

2. In a nutshell, the case of the parties could be stated thus :-

The defendant is the appellant in the appeal as well as the revision petition. The suit was laid by the plaintiff, who is the 1st respondent in both the appeal and the revision petition for a declaration to declare the sale deed dated 18.1.2019 under document No.885/2019 at Sub Registrar Office, Sriperumbudur in favour of the appellant herein as null and void and also for a permanent injunction against the defendants therein from interfering with his peaceful possession of the property and also against registering any kind of documents in respect of B Schedule property and also from mutating the revenue records.

3. It is the case of the plaintiff that the suit property originally belonged to one T.M.Govindasamy, who died on 22.1.2022 leaving behind the plaintiff and four of his siblings as legal heirs, of which, some of them have died pending this suit as well as the other suits filed by the siblings. It is the further case of the plaintiff that T.M.Govindasamy, during his lifetime,



WEB COPY

orally allotted the family properties to his sons and daughters and patta were also transfer in respect of their respective share in their favour. Since some family dispute arose between the siblings, this has led to the filing of the suits of which the present suit is the one instituted by the plaintiff/1st respondent against the other siblings.

4. It is the further case of the parties that pursuant to the above partition, of the five shareholders, four of the shareholders, had sold their respective shares, totalling $\frac{4}{5}$ th of the share in the said property to the appellant herein and only $\frac{1}{5}$ th share is held by the plaintiff. However, inspite of the fact that the plaintiff holds only $\frac{1}{5}$ th share, the aforesaid suit has been laid seeking permanent injunction against the entire suit property, of which $\frac{4}{5}$ th share had devolved on the appellant herein by means of purchase from the other shareholders.

5. In the above backdrop of the case, while the present appeal has been filed to set aside the order of interim injunction passed in the interim application filed in the suit, the civil revision petition has been filed to strike off the plaint on various grounds, including payment of deficit court fee.



WEB COPY

6. There is no quarrel with the relationship between the parties and also the purchase made by the appellant herein from the other siblings of the plaintiff.

7. In the aforesaid background of the case, when the matter is taken up for hearing, pointing out the factual matrix of the case as spelt out, while it is the stand of the learned counsel for the appellant that the right to sale cannot be questioned and, therefore, the appellant is entitled to patta and to proceed along with construction, however, learned senior counsel appearing for the 1st respondent submitted that without demarcating the properties, the purchase of 4/5th share by the appellant herein is invalid, as without demarcation the specific portion which has been purchased by the appellant could not be demarcated, which had weighed with the court below to grant an order of interim injunction and, therefore, the same need not be interfered with. It was further pointed out by the learned senior counsel for the 1st respondent that there are disputed questions of fact, which have been raised and, therefore, the plea to strike the plaint at the threshold cannot be granted.



WEB COPY

8. However, on the aforesaid submissions, this Court pointed out that the entire issue has to be decided only in the suit and it cannot be decided in the present appeal and revision, as there are certain undisputed facts, which have been admitted by either side and certain disputes, which have been pushed to the forefront substantiate the respective case and, therefore, the parties have to go through the rigour of the suit and obtain proper decree.

9. When this was pointed out, learned counsel appearing on either side, upon obtaining instructions from their respective parties submitted that this Court may pass appropriate orders for the expeditious disposal of the suit while at the same time safeguarding the interest of the parties as the interests of all the parties can only be taken care of by this Court.

10. In view of the fair submissions made by the learned counsel appearing on either side, this Court, without entering into the merits of the case, is inclined to dispose of the appeal as well as the revision petition with the following directions :-



WEB COPY



i) *The appellant herein is entitled to enjoy the suit property to the extent of 4/5th share purchased by him as per the sale deed dated 18.01.2019 in Doc. No.885/2018 on the file of the sub Registrar, Sriperumbudur, which would be subject to the result of the suit in O.S. No.114/2024 pending before the Vacation Judge at Kancheepuram (in the court of the District Munsif at Sriperumbudur, Kancheepuram District).*

ii) *The joint patta, as on date, stands in the name of all the legal heirs, including the plaintiff and the appellant herein has purchased only 4/5th share of the other legal heirs. As patta does not confer title, but only points to the occupation and possession, the appellant herein and the plaintiff/1st respondent herein would in no way be affected by the same, as their right to enjoy the said property is safeguarded on the basis of their legal right over the said property, which, however, it is made clear, is subject to the outcome of the civil suit;*



WEB COPY



iii) *The revenue authorities are directed to grant individual patta to the appellant - 4/5th and 1st respondent - 1/5th with regard to their respective shares and CMDA is also directed to grant necessary permission to the appellant herein for putting up construction in the aforesaid property to the extent of 4/5th share as mentioned in sale deed dated 18.01.2019 in Doc. No.885/2019 on the file of the Sub Registrar, Sriperumbudur. However, it is made clear that the patta granted by the revenue authorities and the permission accorded by CMDA for putting up construction and enjoyment of the same by the appellant herein and the 1st respondent would be subject to the result of the civil suit.*

iv) *The Vacation Judge at Kancheepuram (the court of the District Munsif at Sriperumbudur, Kancheepuram District) is directed to take up the civil suit in O.S. No.114/2024 on file and dispose of the same within a period of eight months from the date of receipt of a copy of this order.*



WEB COPY



v) *The civil miscellaneous appeal and the civil revision petitions are disposed of with the aforesaid observations and directions. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.*

21.01.2025

Index : Yes / No

GLN

To

The Vacation Judge at Kancheepuram
(in the court of the District Munsif at Sriperumbudur
Kancheepuram District).

Note to Office :

**Issue order copy
on 4.2.2025**



WEB COPY



M.DHANDAPANI, J.

GLN

**C.M.A. NO.1280 OF 2024
AND
C.R.P. (PD) NO. 2277 OF 2024**

21.01.2025



WEB COPY



**C.M.A.No.1280 of 2024
and
C.R.P(PD).No.2277 of 2024**

M.DHANDAPANI, J.

These matters are listed today under the caption "for being mentioned" at the instance of the learned counsel appearing for the appellant in the appeal/petitioner in the revision petition.

2. The learned counsel appearing for the appellant in the appeal/petitioner in the revision petition submits that in the 2nd line of paragraph No.3, the date has been wrongly mentioned as 22.01.2022, instead of 22.01.2002. He further submits that the boundaries of the property find place only in the Deed of Declaration and to that effect, Clause (i) of paragraph No.10 needs to be modified.

3. The learned counsel appearing for the respondents have no objection to carrying out the said correction.

4. In such circumstances, in second line of paragraph No.3 of the order dated 21.01.2025, the date 22.01.2022 shall stand replaced as



22.01.2002. Further, Clause (i) of paragraph No.10 shall stand replaced as

WEB.COM follows:-

"i). The appellant herein is entitled to enjoy the suit property to the extent of 4/5th share purchased by him as per the sale deed dated 18.01.2019 in Doc.No.885/2019 and the Deed of Declaration Book-IV 89/2024 dated 06.03.2024 on the file of the Sub Registrar, Sriperumbudur, which would be subject to the result of the suit in O.S.No.114 / 2024 pending before the Vacation Judge at Kancheepuram (in the court of the District Munsif at Sriperumbudur, Kancheepuram District).

5. Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties.

05.02.2025

ssb

Note: Issue order copy on **06.02.2025.**

14/15



WEB COPY



M.DHANDAPANI, J.

ssb

**C.M.A.No.1280 of 2024
and
C.R.P(PD).No.2277 of 2024**

05.02.2025