



CMP.No.12666 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 09.07.2025

Order pronounced on : 01.08.2025

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

CMP.No.12666 of 2025
in CRP.SR.No.73358 of 2025
& CRP.No.2134 of 2025

CMP.No.12666 of 2025
in CRP.SR.No.73358 of 2025:

N.Subramanian

..Petitioner

Vs.

1.Ganesh Shankar
2.J.Baby @ Baby Rani
3.R.Gowri Rani

..Respondents

Prayer: Civil Miscellaneous Petition filed under Section 151 of CPC, to grant leave to the petitioner to challenge the award dated 23.05.2018 passed by Lok Adalat in Case No.536 of 2018 on the file of the District Legal Services Authority, Salem, in O.S.No.636 of 2017 on the file of the Principal Subordinate Judge, Salem.

For Petitioner : Mr.S.Dhayalaeswaran

For Respondents : Mr.K.S.Karthik Raja for R1
Mr.M.Sasikumar for RR2 & 3



CMP.No.12666 of 2025

WEB CRP.No.2134 of 2025:

N.Subramanian

..Petitioner

Vs.

1.Ganesh Shankar
2.Gowri Rani
3.Baby Rani
4.Saraswathi

..Respondents

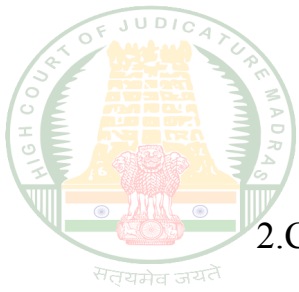
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 10.12.2024 passed in I.A.No.3 of 2023 in O.S.No.235 of 2022 on the file of the I Additional Subordinate Court, Salem.

For Petitioner : Mr.S.Dhayalaeswaran

For Respondents : Mr.K.S.Karthik Raja for R1
Mr.M.Sasikumar for RR2 & 3
No appearance for R4

COMMON ORDER

CMP.No.12666 of 2025 in CRP.SR.No.73358 of 2025 is at the instance of a third party to a Lok Adalat award, seeking to set aside the award dated 23.05.2018, passed in Lok Adalat Case No.536 of 2018, disposing of O.S.No.636 of 2017, on the file of the Principal Subordinate Judge Salem.



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2.CRP.No.2134 of 2025 is filed to set aside the order dated 10.12.2024

passed in I.A.No.3 of 2023 in O.S.No.235 of 2022, on the file of the I
Additional Subordinate Court, Salem.

3.The revisions being inter connected, I have taken up both the revisions
together.

4.The learned counsel for the revision petitioner contends that without
making him as a party in the suit, a compromise has been arrived at, behind the
back of the revision petitioner, thereby depriving him of his legitimate right in
the suit property. He would further state that the petitioner has 50% right in the
property, besides also shares from his father 50%, who admittedly died without
any testamentary instrument and therefore, a fraud has been played by the
parties to O.S.No.636 of 2017, only in order to defeat the rights of the
petitioner.

5.The learned counsel for the respondents states that the revision under
Article 227 of Constitution of India, challenging the Lok Adalat award is not
permissible and he would also bring to my notice that the revision petitioner
has in fact filed a suit in O.S.No.235 of 2022, where the petitioner seeks the



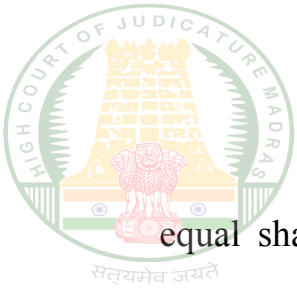
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relief of directing the defendants to divide the suit properties I and II items into two equal shares by metes and bounds and to allot one such equal share to the plaintiff; declaring the suit in O.S.No.636 of 2017 on the file of the Principal Subordinate Judge, Salem, filed by the 1st defendant against the defendants No.2 and 3 as null and void and to restrain the defendants, from in any way, alienating or encumbering any portion of the suit properties to others.

6.It is also an admitted position that the property which is subject matter of the Lok Adalat award is set out as Item-II in schedule of the properties in O.S.No.235 of 2022. In the said suit, the revision petitioner filed I.A.No.3 of 2023 to amend the suit prayer by incorporating a prayer for declaration that the suit in O.S.No.636 of 2017 is null and void. However, the said application has been dismissed by the Trial Court, as against which, C.R.P.No.2134 of 2025 has been filed.

7.Admittedly, it is the contention of the petitioner that despite being Class I legal heirs, the petitioner and his sister have not been impleaded in O.S.No.636 of 2017 and behind their back, a decree for partition has been obtained. As already seen, the suit in O.S.No.235 of 2022 has been filed for directing the defendants to divide the suit properties I and II items into two

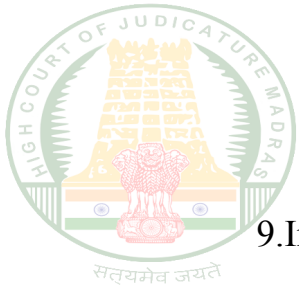


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equal shares by metes and bounds and to allot one such equal share to the plaintiff; declaring the suit in O.S.No.636 of 2017 on the file of the Principal Subordinate Judge, Salem, filed by the 1st defendant against the defendants No.2 and 3 as null and void and to permanently restrain the defendants from in any way alienating or encumbering any portion of the suit properties to others. No doubt, the learned Subordinate Judge has dismissed the application to amend the plaint by incorporating the reliefs of declaration that the Lok Adalat award is null and void, based on the decision of the Hon'ble Supreme Court in *Bhargavi Constructions Vs. Kothakapu Muthyam Reddy*, reported in (2017) 5 CTC 775.

8.In view of the mandate of Order XXIII Rule 3-A of CPC, no suit shall lie to set aside the decree on the ground that compromise on which the decree is based was not lawful. However, the said bar would apply only to the parties to the compromise and not to a person who was not a party to the compromise. Therefore, the Trial Court ought to have permitted amendment of the plaint by permitting the revision petitioner to amend the prayer, by incorporating the relief, challenging the Lok Adalat award in O.S.No.636 of 2017.



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9.In view of the above, I do not see any requirement to grant permission to the revision petitioner to seek setting aside of the Lok Adalat award before this Court under Article 227 of Constitution of India. Hence, I am inclined to allow CRP.No.2134 of 2025. Accordingly, the order in I.A.No.3 of 2023 dated 10.12.2024 is set aside and the amendment application filed stands allowed and the parties shall be entitled to canvas all their claims and objections in O.S.No.235 of 2022.

10.In fine, CMP.No.12666 of 2025 is dismissed. Consequently, CRP.SR.No.73358 of 2025 is rejected at the SR stage itself and CRP.No.2134 of 2025 is allowed. There shall be no order as to costs.

01.08.2025

Speaking/Non-speaking order
Index : Yes/No
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- 1.The District Legal Services Authority, Salem.
- 2.The Principal Subordinate Judge, Salem.
- 3.The I Additional Subordinate Court, Salem.



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P.B.BALAJI.J.

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Pre-delivery order made in
CMP.No.12666 of 2025
in CRP.SR.No.73358 of 2025
& CRP.No.2134 of 2025

01.08.2025