



C.R.P.(PD)NO.1984 OF 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10/10/2025

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CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(PD)NO.1984 OF 2020

AND

C.M.P.NO.12319 OF 2020

1.Muthu
2.Prabhu
3.Prasanna
All residing at
No.1, Vathukkara Street,
Mayiladuthurai,
Mayiladuthurai District.

... Petitioners/ Respondents /
Plaintiffs

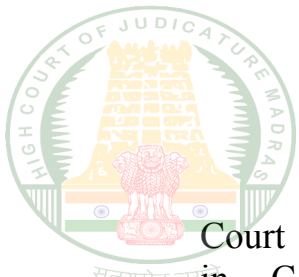
Vs.

1.Chinappan (Died)
2.C.Kathiravan
S/o.Late Chinnappan
No.55H, Indian Bank upstairs,
Koranadu,
Mayiladuthurai,
Mayiladuthurai District,
Pin – 609 01.

... Respondent/ Petitioner/
First defendant

... Legal representative of
deceased First respondent/
Petitioner/ first defendant

Note: First respondent passed away.
Second respondent impleaded as
legal representative of the deceased
first respondent vide Order of this



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Court dated October 10, 2025 made
in C.M.P.No.7665 of 2021 in
CRP.No.1984 of 2020

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PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the fair and decretal Order dated November 02, 2019 passed in I.A.No.1 of 2019 in O.S.No.241 of 2017 on the file of the Principal Subordinate Court, Mayiladuthurai.

For Petitioner : Mr.A.Muthukumar

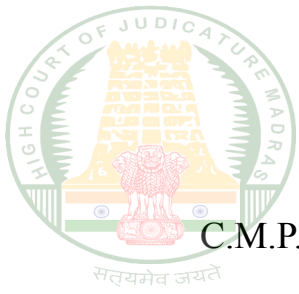
For Respondent No.1 : Passed Away

For Respondent No.2 : Notice hereby dispensed
with

ORDER

This Civil Revision Petition is filed praying to set aside the fair and decretal Order dated November 02, 2019 passed in I.A.No.1 of 2019 in O.S.No.241 of 2017 by 'the Principal Subordinate Court, Mayiladuthurai' ['Trial Court' for short].

2. Pending this Civil Revision Petition, the first respondent passed away and hence, the second respondent was impleaded as his legal representative vide Order of this Court dated October 10, 2025 made in



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C.M.P. No.7665 of 2021 in C.R.P. No.1984 of 2020. Considering the nature of the prayer in this Civil Revision Petition, this Court is of the view that notice to the second respondent is not necessary and hence, it is hereby dispensed with.

3. The revision petitioners herein are the plaintiffs and the first respondent herein is the first defendant in the aforesaid Original Suit. Hereinafter, the parties will be referred to as per their array in the Original Suit.

4. The plaintiffs filed the present Suit in O.S. No.241 of 2017 seeking partition. The first plaintiff viz., Muthu had filed an earlier Suit in O.S. No.69 of 2013 on the file of the Principal District Munsif Court, Mayiladuthurai seeking permanent injunction. In the said Suit, the fourth defendant therein filed I.A. No.171 of 2016 seeking to mark an unstamped and unregistered Release Deed dated June 17, 2002 said to have been executed by the first plaintiff herein in favour of the defendants therein. The above said application was allowed. Feeling aggrieved by the same, the first plaintiff preferred Civil Revision Petition in C.R.P. No.3971 of 2017.



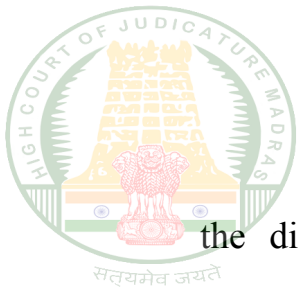
WEB COPY 5. During the pendency of the Civil Revision Petition in C.R.P.

No.3971 of 2017, the first defendant herein, who is also a defendant in the injunction Suit, filed a petition under Section 10 of the Code of Civil Procedure, 1908 praying to stay the present Suit in O.S. No.241 of 2017 till the disposal of C.R.P. No.3971 of 2017 before the Trial Court.

6. The Trial Court after hearing both sides, allowed the petition and stayed O.S. No.241 of 2017 till the disposal of O.S. No.69 of 2013 on the file of the Principal District Munsif, Mayiladuthurai.

7. Feeling aggrieved with the Order, the plaintiffs in O.S. No.241 of 2017 have preferred this Civil Revision Petition.

8. Learned Counsel for the revision petitioner would submit that the Civil Revision Petition in C.R.P. No.3971 of 2017 preferred against the Order passed by Principal District Munsif, Mayiladuthurai in I.A. No.171 of 2016 in O.S. No.69 of 2013 was allowed and the Order passed in I.A. No.171 of 2016 was set aside. The prayer in I.A.No.1 of 2019 in the present Suit in O.S. No.241 of 2017 was only for the stay of the Suit till

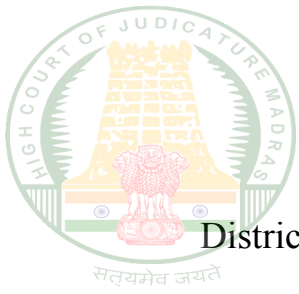


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the disposal of C.R.P. No.3971 of 2017. The Trial Court without considering the prayer in that Interlocutory Application, stayed the present Suit till the disposal of the Original Suit in O.S. No.69 of 2013, which is an error apparent on the face of record. Accordingly, he would pray to allow the Civil Revision Petition and set aside the Order passed by the Trial Court in I.A.No.1 of 2019 in the present Original Suit.

9. Heard the learned Counsel for the revision petitioners / plaintiffs. This Court has perused the records including the Order passed by the Trial Court in I.A. No.1 of 2019.

10. The plaintiffs filed the present Suit seeking the relief of partition. According to the plaintiffs, the suit property is owned by one Govindasamy Padayachi, who is none other than the paternal uncle of the first plaintiff and defendants 1, 3, 6, 10 and 13, and the said Govindasamy Padayachi executed Will dated March 13, 1982 bequeathing all his property to his brother's grandsons viz., the first plaintiff and the defendants 1, 3, 6, 10 and 13. Further case of the plaintiff is that the first plaintiff is in possession and enjoyment of a portion of the suit property, and the Injunction Suit in O.S.No.69 of 2013 on the file of the Principal



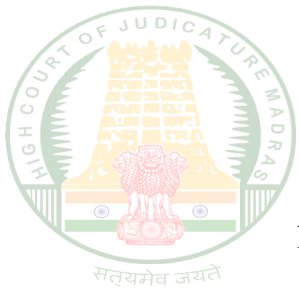
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District Munsif, Mayiladuthurai was filed by first plaintiff as the defendants therein tried to evict the first plaintiff and alienate the suit property. The suit property in both the Suits are one and the same.

11. In O.S.No.69 of 2013, trial commenced, and the plaintiff's side evidence was closed. At that stage, vide I.A. No.171 of 2016, the defendants therein wanted to mark a notarized unregistered Release Deed allegedly executed by the first plaintiff herein relinquishing his share in the suit property in favour of the defendants therein after receiving consideration. The first plaintiff herein denied the said Release Deed. The Principal District Munsif, Mayiladuthurai allowed I.A. No.171 of 2016.

12. Feeling aggrieved with the Order passed in I.A. No.171 of 2016, the first plaintiff herein (plaintiff therein) preferred Civil Revision Petition in C.R.P. No.3971 of 2017 and the same was allowed by this Court on September 27, 2024.

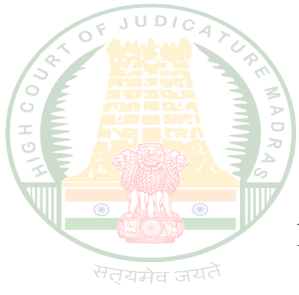
13. In the meantime, the first defendant herein filed a petition under Section 10 of the Code of Civil Procedure, 1908 seeking to stay all further proceedings in the present Suit in O.S.No.241 of 2017 till the disposal of C.R.P. No.3971 of 2017.



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14. Both the Suits are in respect of the same property. The present one viz., O.S.No.241 of 2017 is for partition and the earlier one in O.S.No.69 of 2013 is for injunction. In these circumstances, either the plaintiffs or the first defendant ought to have taken steps to transfer O.S.No.69 of 2013 to the Trial Court and conduct the cases in joint trial or at least simultaneous trial. Without following the said procedure, the first defendant herein filed a petition under Section 10 of the Code of Civil Procedure, 1908 praying to stay the proceedings of the present Suit till the disposal of C.R.P. No.3971 of 2017, which in the considered opinion of this Court, is not maintainable.

15. Be that as it may, though the first defendant sought only to stay O.S.No.241 of 2017 only till the disposal of C.R.P. No.3971 of 2017, the Trial Court granted stay till the disposal of Suit in O.S.No.69 of 2013, which is not in accordance with law and against the interest of justice. The approach of the Trial Court is erroneous in law, and its Order is liable to be set aside. Moreover, C.R.P. No.3971 of 2017 was disposed of on September 27, 2024. Hence, there is now no impediment for the respective Courts to proceed with the Suits.



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16. In the result, the Civil Revision Petition is allowed and the Order passed by the Trial Court in I.A. No.1 of 2019 in O.S. No.241 of 2017 is set aside, and I.A.No.1 of 2019 is dismissed. Keeping in mind the facts and circumstances of the case, there shall be no order as to costs in this Civil Revision Petition. Consequently, Connected Civil Miscellaneous Petition is closed.

10/10/2025

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To
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The Principal Subordinate Judge,
Mayiladuthurai.



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R. SAKTHIVEL, J.

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