



C.R.P.No.2142 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2142 of 2025

and

C.M.P.No.12540 of 2025

Sinduja

... Petitioner

Vs.

1.Manickam

2.Durai

3.Manimaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order dated 28.02.2025 passed in R.E.A.No.10 of 2023 in R.E.P.No.127 of 2019 in O.S.No.21 of 2017 on the file of the Additional District Court, Attur.

For Petitioner : Mr.D.Magesh

ORDER

Challenging the order of the Additional District Court, Attur, dated 28.02.2025, made in R.E.A.No.10 of 2023 in R.E.P.No.127 of 2019 in



C.R.P.No.2142 of 2025

O.S.No.21 of 2017, dismissing the application under Order 21 Rule 58 of CPC (claim petition) filed by the petitioner, the present revision has been filed.

2. Brief background of the case is as follows :

Originally, the 1st respondent has filed the suit against the respondents 2 and 3 for specific performance to enforce a registered agreement dated 09.10.2015. The said suit was decreed on 07.09.2017. Thereafter, the decree holder filed an Execution Petition in E.P.No.127 of 2019 to enforce the decree. In the Execution Petition, the revision petitioner, who is said to be the daughter of the 1st defendant/2nd respondent herein, filed the present application under Order 21 Rule 58 of CPC claiming that she has a share in the subject property, since the property is an ancestral property. In the said application, she has also sought to cancel the settlement deed executed by her grandfather in the year 2001. It is to be noted that the said application has been filed in the year 2023. Thereafter, Execution Petition has been transferred to the Additional District Court, Attur, wherein, the learned Judge, after perusing the application, has dismissed the application. Challenging the same, the present revision has



C.R.P.No.2142 of 2025

been filed.

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3.The main grievance of the learned counsel for the revision petitioner is that, without hearing the petitioner/applicant, the application has been dismissed, and that the petitioner has the right to be heard in the Execution Petition.

4.I have perused the entire materials available on record.

5.As narrated above, the petitioner has sought to annul the settlement deed of the year 2001, in the year 2023. Be that as it may, this Court is not entering into that aspect for the present. But the fact remains that the petitioner has filed the application under Order 21 Rule 58 of CPC to annul the document of the year 2001. It is pertinent to note that the petitioner has not agitated her right as against any attachment or claim. She, in fact, seeks to establish her independent right in the property. According to her, the property is an ancestral property and therefore, she has a right in the property. In such case, it is for her to establish the same by filing a separate suit. In a suit arising out of the contractual terms between the parties, the



C.R.P.No.2142 of 2025

petitioner cannot attempt to stall the execution of the decree claiming that she has a share in the property. Therefore, this Court is of the view that the very filing of the application under Order 21 Rule 58 of CPC itself is not maintainable and it is for the petitioner to work out her remedy in a separate suit.

6. Therefore, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

05.06.2025

mkn

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

Neutral Citation : Yes / No

To

The Additional District Judge,
Attur.



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C.R.P.No.2142 of 2025

N. SATHISH KUMAR, J.

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C.R.P.No.2142 of 2025

05.06.2025