



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

C.R.P.No.2291 of 2023
and
C.M.P.No.13849 of 2023

1.A.Rani
2.K.Selvi
3.A.Sathishkumar
4.A.Ramasamy
5.K.Santhosh Kumar
6.K.Poovarasan
7.Minor.K.Ragul
(Minor Rep by his mother, Next Friend / 4th Defendant Selvi)
...Petitioners/Petitioners/Defendants

..Vs..

1.Jayamani (f)
2.P.Azhagan
3.A.Ramaraj
4.The Sub-Registrar, Perambalur
The Sub Registrar Office, Kashpa Town, Perambalur Taluk and District.
...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the Decree and Judgment dated 17.02.2023 passed in I.A.No.04 of 2020 in O.S.No.26 of 2019 on the file of Principal District Judge, Perambalur.



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

For Petitioners : Mr.S.Selva Kumar
For R1 : Mr.D.Rajagopal
For R2 and R3 : Mr.A.K.R.Ravi
For R4 : Mr.B.Tamilnidhi,
Additional Government Pleader

ORDER

The unsuccessful defendants 3 to 9 have preferred this petition.

2. The suit in O.S.No.26 of 2019 was filed for partition. The defendants 3 to 9 filed an application in I.A.No.4 of 2020 under Order 7 Rule 11(d) of CPC seeking rejection of the plaint in O.S.No.26 of 2019.

3. Upon hearing both sides, the Court below, by order dated 17.02.2023, dismissed the application on the ground that, while considering an application under Order 7 Rule 11, only the averments in the plaint and the documents filed by the plaintiffs alone can be looked into. The other documents relied upon by the defendants were only Adangal extracts standing in the names of Pappathi, Ramayee, and Azhagan. Even though only the plaint and plaint documents are to be considered for entertaining an application for rejection of plaint, the Court further finds that even after considering the documents filed by the defendants, the plaint could not be



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

rejected at the threshold. Aggrieved by the said order, the defendants 3 to 9 have preferred the present Civil Revision Petition.

4. The learned counsel appearing for the revision petitioners/D3 to D9 submitted that the Court below failed to consider that there was no prima facie material to show the existence of a joint family nucleus between the plaintiffs and the defendants. It was further contended that the plaintiffs and the defendants are not members of an undivided Hindu family and that the plaint contained unnecessary allegations to bring in the requirements and ingredients of a Hindu Undivided Family (HUF). The Court below also failed to consider that the plaintiffs and the defendants are not living under the same roof and hence cannot claim existence of an HUF. The Court failed to note that there was no sufficient proof of any joint family fund or nucleus for the existence of suit Item Nos. 3 to 11, nor for the acquisition of Item Nos. 1 and 2. It was further argued that a Hindu Undivided Family can arise only through the male line and not the female line. The plaintiff has cleverly drafted the plaint to create a false cause of action, and such vexatious litigation should have been rejected at the threshold. To strengthen his



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

contention, the learned counsel for the revision petitioners relied upon certain judgments.

(i) Civil Appeal No.9519 of 2019 (Arising out of SLP (Civil) No.11618 of 2017) [Dahiben Vs.Arvinbhai Kalyanji Bhanusali (Gajra)(D) The LRs & ORs.

(ii) C.R.P.(PD)No.3454 of 2017 [A.Valliammal and others Vs.C.Madhuram and others]

5. The learned counsel further contended that the suit properties were not joint family properties but were obtained by the first defendant through his mother, Ramayee. Thus, the properties devolved through the female line, and the first defendant alone had the right to execute a Will, sale deed, or settlement deed in respect of the same. As per Section 15 of the Hindu Succession Act, the children and husband are the Class-I heirs of a female. After the death of Ramayee Ammal, her only son, the first defendant, inherited the suit properties. As per Section 8 of the Hindu Succession Act, a son can inherit property through his father, and consequently, the son of the first defendant will have rights in the property by virtue of being born into the joint family. Hence, the properties cannot be treated as joint family properties of the plaintiff and defendants, and therefore, the suit for partition



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

is not maintainable during the lifetime of the first defendant.

6. Per contra, the learned counsel for the respondents/plaintiffs contended that under Order 7 Rule 11(d) of CPC, only the plaint and plaint documents should be considered for rejection of a plaint. The plaintiffs have clearly averred that the suit schedule properties are joint family properties belonging to Hindu family members. The question of separate or self-acquired property does not arise at this stage, and without adducing evidence the said issue cannot be decided. It was also contended that based on documents 3 to 6, the subsequent documents 7 to 10 were executed, and hence oral evidence cannot be permitted in contradiction to those documents. Similarly, the second respondent/first defendant contended that the plea of title raised by the defendants is legally unsustainable under Order 7 Rule 11(d) CPC, and without deciding that aspect, the plaint cannot be rejected.

7. The learned counsel for the plaintiffs further submitted that the



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

burden of proof lies on the person who alleges self-acquisition to affirmatively establish that the properties were acquired without any aid from the joint family property. Since the defendants 8 and 9 failed to prove that the suit properties are self-acquired, the plaint cannot be rejected. The learned counsel for the second respondent/first defendant also adopted the arguments advanced by the learned counsel for the plaintiffs.

8. It is seen from the records that the suit is filed for partition and consequential reliefs. The petition for rejection of the plaint is filed mainly on the ground that the suit properties are self-acquired properties of the first defendant, who inherited them from his mother through the female line, and hence, they cannot be treated as joint family properties.

9. At this juncture, it is relevant to refer to Order 7 Rule 11 of CPC, which reads as under:

11.Rejection of plaint: The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is under-valued, and



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

10. It is seen from the plaint that the plaintiff has averred that the suit schedule properties are joint family properties. The burden of proof lies on the person alleging self-acquisition to establish affirmatively that the properties were acquired without aid from the joint family. Thereafter, the onus of proof shifts on the revision petitioners/defendants to prove that the schedule properties are the self-acquired properties of the first defendant.

11. It is further seen from the plaint averments that defendants Azhagan and others treated the properties as joint family properties and executed sale deeds and settlement deeds. The first document relied upon by



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

the plaintiff is dated 17.04.1985, executed in favour of Azhagan by Pappathi and Lakshmi, relating to 1.50 acres in S.No.283/1. The revision petitioners/defendants have produced three documents, namely Ex.P1- photostat copy of sale deed dated 30.10.1947, Ex.P2 - Adangal in the name of Pappathi and Ramayee for Fasli 1395 and Ex.P3-Adangal in the name of Azhagan for Fasli 1427.

12. It is well settled that in an application filed under Order 7 Rule 11(d) of CPC, only the plaint averments and plaint documents can be considered. The documents produced by the defendants cannot be looked into at this stage. It is to be noted that when this court is called upon to exercise jurisdiction to reject the plaint under Order VII Rule 11 of CPC, the averments made in the plaint and the documents filed along with the plaint, which form part thereof alone will be taken into consideration and this court cannot consider the defence, pleas or materials submitted by the defendant for the purpose of rejecting the plaint (Gunaseelan Vs. Valarmathi and 2 Ors. 2009(5) CTC 693.Para 13) Thus, the contentions raised by the revision petitioners/defendants can be decided only by letting in evidence during the



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

WEB COPY

course of trial. Therefore, there is no ground to interfere with the order of the Court below.

13. In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected C.M.P. is closed.

24.09.2025

nvi

Index: Yes/No

Speaking Order: Yes/No

To

The Additional Subordinate Judge, Krishnagiri

M.JOTHIRAMAN,J.,



WEB COPY



C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

nvi

C.R.P.No.2291 of 2023 and
C.M.P.No.13849 of 2023

24.09.2025