

CRP(PD).No.2298 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.2298 of 2020

and

CMP.Nos.14425 of 2020

1.P.Kalaiselvi
2.S.Kanchana
3.B.Arivukodi
4.P.Sathya
5.P.Nivetha

... Petitioners

Vs.

D.Chandrammal (Died)

1.S.Rama Ashokan

V.Allirani (Died)

P.Viswanathan (Died)

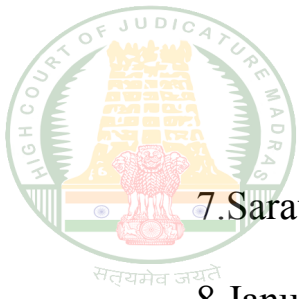
2.V.Navin

3.V.Shilpa

4.P.Nishanthi

5.Sakunthala @ Chandraveni

6.Devendran



7.Saravanan

8.Janu

9.Vijayalakshmi

10.Wilson

... Respondents

(Respondent-3 died. Respondent 6 and 7 are brought on records as Lrs of the deceased R.3 viz.V.Allirani vide Court order dated 21.03.2024 made in CMP.Nos.3031, 3027, 3029 & 3030/2024 in CRP.No.2298/2020 and CMP.No.1445/2020 by SSJ)

(Respondents 5 to 10 are brought on record as LR's of the deceased respondent viz.,P.Viswanathan vide Court order dated 13.03.2025 made in CMP.No.3029 of 2024 in CRP.No.2298/2022 by PTAJ)

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order IA.No.1 of 2020 in OS.No.148 of 2018 dated 13.10.2020 on the file of the Additional District Munsif Court, Tirupathur, Vellore District.

For Petitioner : M/s.S.Uma Maheshwari

For Respondent : R.1 Died

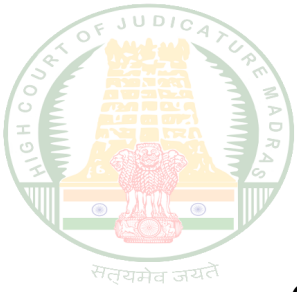
(vide CMP.No.3030, 3031 & 3029 of 2024)

: R.2 No appearance

: R.2 and R.4 – died, Steps taken

: R.5 served, No appearance

: R.6 and R.7, served, No appearance



ORDER

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Challenging the dismissal of their petition for issuing Subpeona to the Tahsildar, Vaniyambadi Taluk to cause production of the documents listed out and to give evidence, the plaintiffs are the petitioners before this Court.

2. Brief facts are set out herein below and the parties are referred to in the same ranking as before the Trial Court.

3. The plaintiffs had filed a suit OS.No.120/2013 on the file of the Additional District Munsif, Tirupattur for a partition.

4. It is the case of the plaintiffs that the property originally belonged to one Deivasigamani Mudaliar who had purchased the same under a registered sale deed dated 15.12.1986. The said Deivasigamani Mudaliar had died in the year 1994 leaving behind him surviving his wife, the 1st defendant and children, plaintiffs 1 to 3 and the 3rd defendant and son Puratchiveeran. In the year 2006 Puratchiveeran had passed away leaving behind surviving his wife,



the 4th plaintiff and daughters who are the plaintiffs 5 and 6. It is the contention of the plaintiffs that there was no partition of the suit properties.

5. While so, the 1st defendant had clandestinely created a power of attorney in respect of the suit property in favour of the 2nd defendant who in turn had created a sale deed for himself and converted the lands into house sites and started selling the same. The plaintiffs would submit that since there is no partition, they are entitled to a share in the property. Hence, the suit.

6. The 2nd defendant had filed a written statement stating that the plaintiffs are not entitled to a share as the property had already been partitioned between the plaintiffs and the defendants. It was also contended that the property originally belonged to Deivasigamani Mudaliar and the same had been bequeathed to the 1st defendant under a Registered Will dated 14.10.1992.

7. The plaintiffs had filed a reply contending that the Will dated



14.10.1992 was a fabricated one since Deivasigamani Mudaliar was not in a sound disposing state of mind at that relevant period in time.

Further, the attesor of the Will are all close associates of the 2nd defendant. The 2nd defendant had created a fraudulent document on the basis of the power of attorney.

8. Pending the suit, at the stage of Trial, the plaintiffs had taken out an application in IA.No.2/2019 to examine the Village Administrative Officer to show that the suit schedule property had not been converted into house sites. The VAO had deposed that he is not in custody of the documents and that it is in the custody of the Town Surveyor. Therefore, they had come forward with another application in I.A.No.3/2019 seeking to examine the Town Surveyor. This application was dismissed. Therefore, the petitioner has once again taken out the instant application in IA.No.1 of 2022.

9. The 2nd respondent had filed a counter inter alia contending that the property is assigned with a Town Survey Number and brought under town limit and therefore there is no necessity to examine



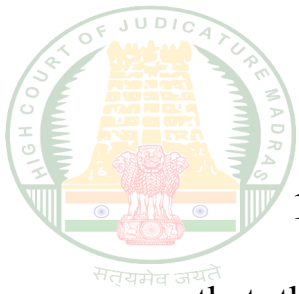
witnesses as the revenue records would itself show the classification.

The 2nd respondent had also contented that the Tahsildar is not the competent authority and it is only the Municipal Commissioner who is the competent authority if at all to give evidence.

10. The 4th defendant had filed a counter reiterating the contents of the 2nd defendant and contending that the plaintiffs are attempting to introduce a new set of documents.

11. The learned Trial Judge has dismissed the application on the ground that the application has not been taken out properly as the Tahsildar, Vaniyambadi Taluk is not the competent authority to depose about the property which is situated within the town municipality itself and it is only the Municipal Commissioner who is the competent authority. Aggrieved by the same, the petitioners are before this Court.

12. Heard the learned counsel for the petitioners and perused the records.



13. The grounds on which the application has been rejected is that the application has not been taken to issue summons to the appropriate authority. In fact, even in the counter the 2nd respondent had taken the very same stand. However, the petitioners have not even then deemed it fit to amend the prayer and have proceeded in retaining the original prayer.

14. Considering the fact that the person to whom the Subpoena is sought to be issued is not the controlling authority, no useful purpose would be served by allowing this application and the same has been rightly rejected by the Trial Court. I see no reason to interfere with the same.

15. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

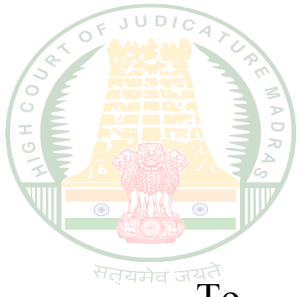
13.03.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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To
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1. The Additional District Munsif Court,
Tirupathur, Vellore District.



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CRP(PD).No.2298 of 2020

P.T. ASHA. J.,

(shr)

CRP.(PD).No.2298 of 2020

and

CMP.No.14425 of 2020

13.03.2025

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