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C.R.P.(PD)NOS.3104, 3110 & 3197 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12/11/2025

CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(PD)NOS.3104, 3110 & 3197 OF 2022

Kaliappa Chettiar (died)

Nallammal (died)

1.Arumugam

2.Palaniswamy

3.Santhamani

4.Sarawathi

5.Kaliammal

6.Bagyalakshmi

... Petitioners/Petitioners/
Defendants (in all CRPs)

Vs.

1.Palani Chettiar

2.Ramasamy

... Respondents/Respondents/
Plaintiffs (in all CRPs)

PRAYER IN CRP.NO.3104 OF 2022: Civil Revision Petition filed

under Article 227 of the Constitution of India, 1950, praying to set aside



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the Fair and Decreetal Order dated August 05, 2022 made in I.A.No.4 of 2022 in O.S.No.947 of 2014 on the file of the Principal Sub-ordinate Court, Coimbatore.

PRAYER IN CRP.NO.3110 OF 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Fair and Decreetal Order dated August 05, 2022 made in I.A.No.5 of 2022 in O.S.No.947 of 2014 on the file of the Principal Sub-ordinate Court, Coimbatore.

PRAYER IN CRP.NO.3197 OF 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Docket Order dated August 05, 2022 made in O.S.No.947 of 2014 on the file of the Principal Sub-ordinate Court, Coimbatore.

For Petitioners
(in all CRPs) : Ms.D.E.Anishree Sangavi
for Mr.R.Venkatesulu

For Respondents
1 & 2 (in all CRPs) : Served – no appearance



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COMMON ORDER

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Feeling aggrieved by the dismissal Orders on the Interlocutory Application in I.A.No.4 of 2022 filed to re-open the plaintiff side evidence and Interlocutory Application in I.A.No.5 of 2022 to recall P.W.1 and by the Docket Order dated August 05, 2022, the Defendants in O.S.No.115 of 2005 have preferred these Civil Revision Petitions.

2.The Revision Petitioners herein are the Defendants 2 to 8 and the respondents herein are the plaintiffs in the Original Suit. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

3.The plaintiffs and late Kaliappa Chettiar (1st defendant) and one Kolandai Chettiar are brothers and sons of late Chinnan Chettiar. According to the plaintiffs, the plaintiffs and Kaliappa Chettiar (1st defendant) are entitled to ½ share in the Suit properties. Kaliappa Chettiar (1st defendant) passed away and his legal heirs were arrayed as defendants 2 to 8, who are the Revision Petitioners herein.



4. In the Original Suit, the trial commenced, the plaintiffs side evidence was closed with P.W.1 on February 21, 2022 and posted for defendants' side evidence on March 11, 2022. On April 12, 2022, the defendants filed petitions under Order XVIII Rule 17 of Code of Civil Procedure, 1908, to reopen the plaintiffs' side evidence and to recall P.W.1 and the same were numbered as I.A.Nos.4 and 5 of 2022.

5. After hearing both sides, the Trial Court dismissed I.A.Nos.4 and 5 of 2022 by reasoning out that the case is pending for the past 15 years and P.W.1. was extensively cross examined by the defendants. Hence, there is no need to reopen and recall P.W.1. Accordingly, the said petitions were dismissed on August 05, 2022 and on the same date, the defendants side evidence was closed since the defendants side did not file list of witnesses.

6. Feeling aggrieved by the dismissal Orders passed in I.A.Nos.4 and 5 of 2022 and also the Closure Order passed by the Trial Court, the defendants have preferred these Civil Revision Petitions.



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7.Despite notice to the respondents 1 and 2, they did not appear and contest the Revision Petitions.

8.Heard Ms.D.E.Anishree Sangavi, learned Counsel appearing for the Revision Petitioners.

9.Ms.D.E.Anishree Sangavi, learned Counsel appearing on behalf of Mr.R.Venkatesulu, counsel on record for the Revision Petitioners submit that the Trial Court erred in dismissing I.A.Nos.4 and 5 of 2022. The Trial Court further erred in closing the defendants' side evidence without giving sufficient opportunities to the defendants. The procedures adopted by the Trial Court are erroneous in law. She further submits that the Trial Court ought to have adhered to the principles of natural justice before closing the defendants' side evidence. Accordingly, she prays to allow the Revision Petitions and to give an opportunity to the defendants to establish their evidence effectively.

10.This Court has perused the plaint, connected petitions and orders passed thereon. The plaintiff filed a Suit for partition in the year 2005. The plaintiff was examined as P.W.1 and he was cross examined



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on August 27, 2021, September 03, 2021 and September 20, 2021.

Thereafter, the plaintiffs' side evidence was closed with P.W.1. When the case was posted on March 11, 2022 for defendants' side evidence, despite sufficient opportunities, the defendants did not examine any witness till April 12, 2022. On April 12, 2022, the defendants filed petitions under Order XVIII Rule 17 and Section 151 of the Code of Civil Procedure, 1908 seeking to reopen and recall P.W.1. The said applications were numbered as I.A.Nos.4 and 5 of 2022 and the same was dismissed after hearing both sides on August 05, 2022.

11. Considering the facts and circumstances of the case, this Court is of the view that the Trial Court gave sufficient opportunity to the Revision Petitioners and the Revision Petitioners have cross examined P.W.1 in an extensive manner. Hence, this Court does not find any irregularity in the orders passed in I.A.Nos.4 and 5 of 2022.

12. As far as the Docket Order dated August 05, 2022 is concerned, the Trial Court closed the defendants' side evidence stating that the defendants did not file list of witnesses as per Order XVI Rule 1 of Code of Civil Procedure, 1908.



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13.It is true that under Order XVI Rule 1, the parties to the Suit shall file list of witnesses intended to be summoned during trial. It is settled law that procedures are made to render justice, not to deny the rights of the parties. Without filing the list of witnesses under Order XVI Rule 1, the parties can summon the witnesses after obtaining leave from the Court. In these circumstances, the closure of defendants' side evidence for not furnishing list of witnesses under Order XVI Rule 1 is not in consonance with the provisions of law. Hence, to that extent, this Court finds some irregularity in the Order passed by the Trial Court.

14.In the result, C.R.P.No.3197 of 2022 is partly allowed and the operative portion of the Docket Order dated August 05, 2022 i.e. the closure of defendants' side evidence alone, is set aside and C.R.P.Nos.3104 and 3110 of 2022 are dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.

15.The Trial Court is directed to permit the defendants to lead their evidence and the defendants shall appear and produce the witnesses on the date fixed by the Trial Court. Both the parties are directed to cooperate with the Trial Court for expeditious disposal of the case.



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Considering the age of the Suit, the Trial Court shall endeavour to dispose of the same expeditiously.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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To
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The Principal Subordinate Court,
Coimbatore.



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R. SAKTHIVEL, J.

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