



C.R.P.No.2916 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

**C.R.P.No.2916 of 2023
and CMP.No.18037 of 2023**

Jeyavel

...Petitioner

Vs.

1.Venkatesh
2.Ganeshmoorthy
3.Vinoth Kumar
4.Prabhu

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the order passed in I.A.No.192 of 2021 in O.S.No.62 of 2016 dated 19.04.2023 on the file of the District Munsif Court, Cheyyar, Thiruvannamalai District and allow the Revision with cost.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondents : Mr.B.Jawahar
for R2 to R4
No Appearance
for R1

ORDER



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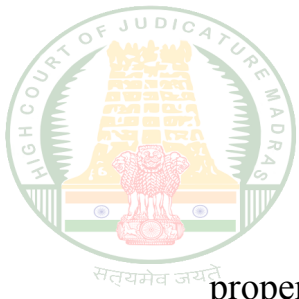
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The present Civil Revision Petition has been filed by the 6th defendant. The 6th defendant was set ex-parte in O.S.No.62 of 2016 on the file of the District Munsif Court, Cheyyar. Subsequently, the 6th defendant filed I.A.No.192 of 2021, which was an application under Section 5 of the Limitation Act, seeking condonation of delay of 910 days in filing the application under Order IX Rule 13 CPC to set aside the ex-parte decree. On contest, the said application was dismissed. Aggrieved by the dismissal, the present revision has been filed.

2. Heard the learned counsel for the petitioner and the learned counsel for the contesting respondents 2 to 4.

3. It is an admitted fact that the property originally belonged to one Adimoolam. The 6th defendant is a purchaser of the entire property from the 5th defendant, who in turn had purchased it from defendants 1 and 2, the sons of the said Adimoolam leaving out the other two sons, who are respectively the father of plaintiff No.1 and the father of plaintiffs 2 to 4.

4. In view of the above, it is clear that the sale in favour of the 6th defendant could have been valid only to the extent of 50% of Adimoolam's



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property, and not the entire property. Though the suit is one for partition, the plaintiffs have also sought declaratory relief to annul the sale deed in favour of the 6th defendant.

5. Admittedly, the 6th defendant could not have purchased the entire property, as he claims title only through two out of four sons of Adimoolam. However, although the sale deed in favour of the 6th defendant is in respect of the entire suit property, the plaintiffs are entitled to claim the remaining undivided 50% share, and the 6th defendant's title can be upheld to the extent of the 50% share lawfully conveyed through the vendors.

6. The learned counsels are agreeable for an order to this effect restricting the entitlement of the revision petitioner to 50% of the suit property, with liberty to the parties to work out the modalities of physical division by metes and bounds, in the final decree application, whether already pending or to be taken out in due course.

7. In view of the above, this Civil Revision Petition is disposed of in the following manner:-

(i) The preliminary decree for partition is confirmed.



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(ii) The decree, insofar as it declares the sale deed in favour of the 6th defendant (revision petitioner) as null and void, is set aside.

(iii) The declaration is restricted to the 50% undivided share of the suit property purchased by the 6th defendant, through the 5th defendant.

(iv) The parties are at liberty to work out the physical division of the property by filing an appropriate final decree application, or by pursuing any pending final decree application, in accordance with law.

8. This Civil Revision Petition is allowed with the above observations. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.09.2025

Index : No
Internet : Yes
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To

The District Munsif Court, Cheyyar, Thiruvannamalai District.



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