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CRP.No.4284 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4284 of 2025

1. Mr.Radhakrishnan

2. Mr.Ramesh

... Petitioners / Petitioners

Versus

1. Mrs. Annapoorani

2. Mrs.Sarojini

3. Tmt. Poongothai

4. Mr.Nandhakumar

5. Snega

... Respondents / Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Additional District Munsif, Pollachi to number the I.A. filed in I.A.S.R.No.3312 of 2025 in O.S.No.66 of 2022 and dispose the same in accordance with law.

For Petitioner : Mr.C.Veera Raghavan

ORDER

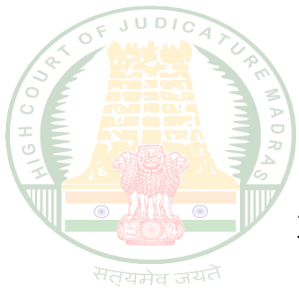
Unsuccessful plaintiffs have preferred the present Civil Revision Petition.



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2. The suit in O.S.No.66 of 2021 on the file of the Additional District Munsif, Pollachi filed for declaration to declare the partition deed dated 09.04.2018 in document No. 788 of 2018 as null and void as against the defendants namely 1. Annapoorani, 2. Sarojini, 3. Poongothai 4. Nandhakumar and 5. Snega. During the pendency of the suit, the first plaintiff Balachandra died. Therefore, one Radhakrishnan and Ramesh are impleaded as legal representatives of the deceased Balachandra and they have been impleaded as second and third plaintiffs as per the order dated 07.01.2025 passed in I.A.No.2 of 2024 in O.S.No.66 of 2021. The defendants have filed their written statement. At this stage, the plaintiffs have filed an application under Order 23 Rule 1 (3) of CPC to withdraw the suit. In I.A.SR.No.3312 of 2025 in O.S.No.66 of 2021, the Court below, without numbering the aforesaid application, has simply recorded vide order dated 17.04.2025 that the third plaintiff present. Counsel also present. Order 23 Rule 1(3) CPC filed and recorded. Hence, this suit is dismissed as withdrawal. No cost. Aggrieved over the same, the petitioners / plaintiffs have preferred the present Civil Revision Petition.



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3. The learned counsel appearing for the revision petitioners would submit that the Court below failed to consider the Interlocutory application filed by the petitioners and it is the duty cast upon the Court to number and dispose the same in accordance with law. But the Court below simply received the application filed by the petitioners and dismissed the suit on that day itself is against the provisions under the CPC and therefore, liable to be set aside.

4. It is seen from the records, the plaintiffs have chosen to file an application under Order 23 Rule 1 (3) of CPC to withdraw the suit in I.A.SR.No. 3312 of 2025 in O.S.No.66 of 2021. It is seen from the daily proceedings, in the order impugned, the Court below observed that the third plaintiff present. Counsel also present. Order 23 Rule 1 (3) of CPC filed and recorded. Hence, this suit is dismissed as withdrawn. No cost. As rightly pointed out by the learned counsel for the revision petitioners, it is the duty cast upon the Court to number and dispose the same in accordance with law. However, the Court below simply received the application filed by the petitioners and dismissed the suit on that day itself as against the provisions under the CPC and hence the same requires interference.



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5. In view of the above, the order impugned dated 17.04.2023 is setaside. The learned Additional District Munsif, Pollachi, is hereby directed to number the application filed by the revision petitioners / plaintiffs, if it is otherwise in order and dispose of the same in the manner known to law after affording an opportunity to the either side.

6. With the above direction, this Civil Revision Petition stands disposed of. No costs.

16.09.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The Additional District Munsif, Pollachi

M. JOTHIRAMAN, J.

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