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CRP No. 3624 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-10-2025

CORAM

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.R.P. No. 3624 of 2022
and C.M.P.No.19214 of 2022

1. R.Gurusamy
S/o.Late Rangasamy Gounder,
2/28 Sivasakthi Nagar, Teachers Colony,
Opp. Road to Hotel Angalamman,
Vilankurichi Road, Coimbatore.

2. R.Neelamani
W/o.V.K.Subramaniam, 10/378A,
V.S.V.Colony, Kamaraj Street,
Avinashi, Tiruppur District.

... Revision Petitioners /
Petitioners /
Defendants 4&5

Vs.

1. G.Karthika
W/o.R.Gopinath, Door No.112-D,
7th Cross Thaneerpandal, Vilankurichi
Road, Peelamedu, Coimbatore 641004

2.Minor G.Swarnikaa
D/o.late R.Gopinath Rep.by Next
Friend and Mother - G.Karthika
W/o.Late R.Gopinath, Door No.112-D,
7th Cross, Thaneerpandal,

... Respondents 1 & 2 /
Respondents 1 & 2 /
Plaintiffs



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Vilankurichi Road, Peelamedu,
Coimbatore 641 004.

3.M.R.Ramasamy
S/o.late Rangasamy Gounder,
Door No.112-D, 7th Cross,
Thaneerpandhal, Vilankurichi Road,
Peelamedu, Coimbatore 641 004.

4.Amsa @ Hamsaveni
W/o.M.R.Ramasamy,
Door No.112-D, 7th Cross,
Thaneerpandhal, Vilankurichi Road,
Peelamedu, Coimbatore 641 004.

5.Sakthi Kaviya
D/o.Balakrishnan, C/o.M.R.Ramasamy,
Door No.112-D, 7th Cross,
Thaneerpandhal, Vilankurichi Road,
Peelamedu, Coimbatore 641 004.

... Respondents 3 to 5 /
Respondents 3 to 5 /
Defendants 1 to 3

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal Order dated 10.06.2022 made in I.A.No.5 of 2020 in O.S.No.666 of 2019 on the file of the learned V Additional District Judge, Coimbatore.

For Petitioner(s): Mr. Manoj Kumar
 for M/s.KV Law Firm

For Respondents 1&2: Mr. M. Gunasekaran
For Respondents 3-5: Mr. V. Rajendran
 (Not appeared)



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ORDER

The present Civil Revision Petition has been filed by the Revision Petitioners praying to set aside the fair and decreetal Order dated June 10, 2022 made in I.A.No.5 of 2020 in O.S.No.666 of 2019 on the file of the V Additional District Court, Coimbatore.

2. Respondent Nos.1 and 2 are the Plaintiffs and Respondent Nos.3 to 5 are Defendant Nos.1 to 3 and the Revision Petitioners herein are Defendant Nos.4 and 5 in the Original Suit on the file of the V Additional District Judge, Coimbatore.

3. For the sake of convenience, henceforth, the parties will be referred to as per their rank in the Original Suit.

4. Plaintiffs filed the Suit in O.S.No.666 of 2019 seeking partition and other reliefs. According to the plaintiffs, the 3rd item of the Suit Property is an ancestral property. In and out of the income derived from the 3rd item of the Suit Property, Defendant Nos.1 and 2 purchased item Nos.1 and 2 of the suit property in the name of defendant No. 2. According to the plaintiffs, the 3rd item of the Suit Property is an ancestral property.



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5. The revision petitioners herein namely, defendant Nos.4 and 5 before the Trial Court filed a petition under Order VII Rule 11 of C.P.C. praying to reject the plaint on the ground that the plaint does not disclose the cause of action. After hearing both sides, V Additional District Court, Coimbatore, dismissed I.A.No.5 of 2020. Feeling aggrieved, defendant Nos.4 and 5 filed the revision petition.

6. Mr.Manoj Kumar, learned counsel appearing for the revision petitioners, who is before this Court through Video Conferencing mode, submits that the 3rd item of the suit property was purchased by one Rangasamy, vide Sale Deed dated December 29, 1948 as his self-acquired property. Certified copy of the aforesaid Sale Deed has been shown as document No.1 in the list of documents filed along with the plaint. He further submits that the said Rangasamy passed away in the year 2001, leaving behind Defendant Nos.1, 4 and 5 as his legal heirs. Hence, as per Section 8 of the Hindu Succession Act, 1956, defendant Nos.1, 4 and 5 alone are entitled to the 3rd item of the suit property. Therefore, the plaintiffs have no right over the 3rd item of the suit property. He further submits that the plaint does not disclose any cause of action. Accordingly, the same is liable to be rejected. The Trial Court without properly appreciating the plaint and plaint documents, erred in dismissing the petition. Accordingly, he prays to allow the Civil Revision Petition and set aside



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the dismissal order passed in I.A.No.5 of 2020 and allow the I.A., and thereby reject the plaint.

7. Per contra, Mr. M. Gunasekaran, learned counsel appearing for Respondent Nos.1 and 2 /Plaintiffs, submits that already Respondent Nos.3 to 5/ Defendant Nos.1 to 3 filed an application under order VII Rule 11 of 'the Code of Civil Procedure, 1908' (*in short 'CPC'*) and the Order under challenge was decided as a Common Order and both the Interlocutory Applications were dismissed, vide order dated 10.06.2022. Feeling aggrieved, defendant Nos.1 to 3 preferred a Civil Revision Petition in C.R.P.No.3155 of 2022 and the same was dismissed, vide order dated 18.10.2022. He further submits that whether the 3rd item of the suit property is a separate property as contended by the revision petitioners or ancestral property as pleaded by the plaintiffs, is a question of fact, which can be gone into, only at the time of trial. He further submits that the question of fact cannot be decided in an application filed under Order VII Rule 11 of C.P.C. Accordingly, the trial Court, after considering the plaint and plaint documents, rightly dismissed both I.A.Nos.4 of 2019 and 5 of 2020. There is no illegality or irregularity in the Order under challenge. Accordingly, he prayed for dismissal of the Civil Revision Petition.

8. This Court has considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

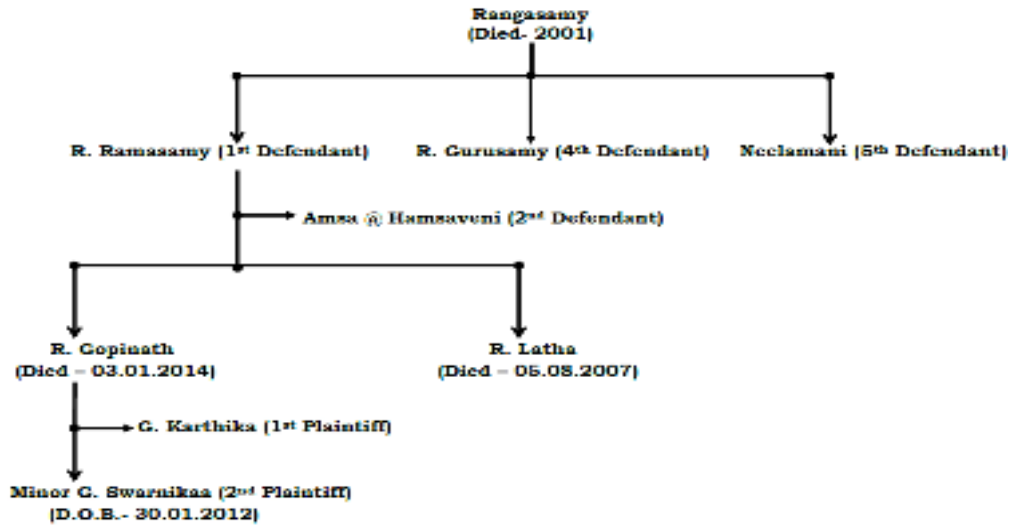


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9. The sum and substance of the arguments of the Defendant Nos.2 and 3 is that the plaintiffs themselves filed Sale Deed dated December 29, 1948, which relates to 3rd item of property purchased by Rangasamy; and Rangasamy passed away in 2001, leaving behind Defendant No.1 and Defendant Nos.4 and 5 (Revision Petitioners herein). Hence, during lifetime of the 1st defendant, plaintiffs are not legal heirs, hence they are not entitled to any right or share over the estate left by Rangasamy. Hence, the plaint does not disclose the cause of action and the alleged causes of action narrated in the plaint are all false.

10. Relationship between the parties can be easily understood through Genealogy:



11.It is apposite to extract Para Nos.(11) and (12) and a portion of para No.(13) of the plaint which read thus:

'11.The 4th and 5th defendants are the brother and sister of the 1st defendant who are the son and daughter of Late Rangasamy Gounder. The said Rangasamy Gounder is an agriculturist having ancestral joint family properties including the suit item No.3. The suit item No.3 is the joint family ancestral property allotted to the share of the 1, 4 & 5th Defendant's father; the 1, 4 & 5th Defendants father was doing only agricultural operation and from out of the Income of Joint family nucleus, he purchased the suit item No.3 Manager and Karta of the family, he had been maintaining the entire joint family consisting of the Defendants 1,4 and 5. Though the 1st defendant and the 2nd defendant are the government servants



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and also they have derived income from 1 defendant's father, out of the 1st defendant's share of income from the suit item No.3. It is further submitted that the 1 defendants' father was doing agricultural operations in the joint family properties said Rangasamy Gounder, the suit item No.3 is only the joint family including the item No. 3 till his death. Now after the death of the said Rangasamy Gounder, the Suit item No.3 is only the joint family property available. During the life time of the said Rangasamy Gounder, from out of the agricultural operations his two sons 1st, 4th defendant and daughter the 5th defendant have divided the joint family income without any interruption with respect of item No.3 and without any division of item No.3. Hence, the suit item No.3 is the Ancestral Joint family property of the defendants 1, 4 and 5.

12.While the above said facts being so, from out of the income derived from the joint family nucleus and out of the share of the joint family income of the 1st defendant, the 1st defendant purchased the suit properties item No.1 and 2 in the name of the 2nd defendant only for the benefit of the joint family and the 2nd defendant name in respect of suit property 1 and 2 is held as a coparcener and as a trustee only for the benefit of the joint family consisting of the 1st defendant and his only deceased son in respect of suit item No.1 and 2. The suit item No.1 and 2 are the ancestral joint family properties of the 1st defendant's and his son. The



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deceased only son Gopinath had spent amount for the construction of the entire house in suit item No.1 and also in suit Item No.2 for the construction of the shopping complex at Seerapalayam, Madhukarai.

13.From the above said facts, it would very clear derived that the suit item No. 1 and 2 are the Ancestral Joint family properties of the 1st defendant and his son deceased Gopinath and the deceased daughter Latha and after their death the Plaintiff they are each entitle to 1/3rd share over the suit properties item Nos.1 and 2. Since the 1st defendant son predeceased leaving behind the Plaintiffs 1 and 2 and the pre deceased daughter Latha leaving behind the 3rd defendant. Hence, the 1^a Defendant, Plaintiffs 1 and 2 and the 3rd defendant are each entitle to 1/3rd share over the ancestral joint family properties of item No.1 and 2 as provided under Hindu Succession Act.'

12.It is a settled law that while considering an application filed under Order VII Rule 11 of C.P.C, the Court has to see the plaint and plaint documents. This Court has perused the plaint and plaint documents. As narrated in plaint Para Nos.11 to 13, according to the plaintiffs, 3rd item of the Suit Property is an ancestral property and in and out of income derived from 3rd item of property, the Suit Item No.(1) and (2) have been purchased. In short, according to the plaintiffs, the Suit Properties are all ancestral properties. In



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Paragraph No.20 of the plaint, the plaintiffs have narrated the cause of action.

Further, it is settled law that whether the cause of action pleaded by the plaintiff is true or not cannot be decided in an application filed under Order VII Rule 11 of C.P.C; it requires trial. Further, in this case, whether the 3rd item of the suit property was self acquired property of Rangasamy or his ancestral property is a question of fact, which can be delved into, only at the time of trial.

13.The Trial Court after considering the plaint and plaint documents, rightly dismissed the petition filed under Order VII Rule 11 of CPC. This Court does not find any irregularity or illegality in the Trial Court's Order. Hence, this Court is of the view that there is no merit in the Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. Considering the age of the petitioners, the trial Court is directed to dispose the Original Suit in an expeditious manner. Both sides are directed to cooperate with the Trial Court for expeditious disposal of the Suit. In view of the facts and circumstances, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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To

The V Additional District Judge
Coimbatore.



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R.SAKTHIVEL, J.

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