



CRP.No.4878 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 27.06.2025

Order pronounced on : 14.07.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.4878 of 2024
& CMP.No.27408 of 2024

1.Ramasamy
2.Selvaraj
3.Ramkumar
4.Sathyan
5.Balakrishnan
6.Sivasubramanian
7.Gunavathi
8.Kannimuthu
9.Mayilsamy

..Petitioners

Vs.

1.Vijayalakshmi
2.Ravikumar
3.Arun Nataraj
4.Shanthi
5.Renuka Devi
6.Bharanidaran
7.Padmavathi
8.Muthulakshmi
9.Eswari
10.Lakshmana Perumal
11.Bala Suresh
12.The President,
Pallapalayam Panchayat,
Udumalet Taluk,
Tiruppur District.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of



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India, to strike off the plaint in O.S.No.467 of 2024 pending on the file of the Principal District Court, Tiruppur which is now transferred to Sub-Court cum Assistant Sessions Judge, Udumalpet and struck off the plaint.

For Petitioners : Mr.V.Raghavachari
Senior Counsel
for Mr.N.Umapathi

For Respondents : Mr.K.Myilsamy for RR1 to 3

Mr.D.Gopal, Government Advocate
for R12

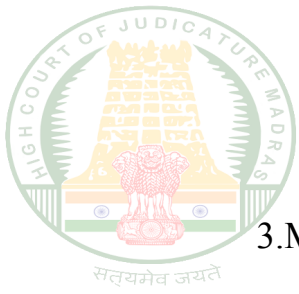
No appearance for RR4 to 6, 10 & 11

RR7 to 9 not ready in notice

ORDER

This revision is at the instance of the defendants 8 to 16 in O.S.No.467 of 2024 on the file of the Principal District Court, Tiruppur, (since transferred to Sub-Court cum Assistant Sessions Court, Udumalpet), seeking to strike off the plaint in O.S.No.467 of 2024.

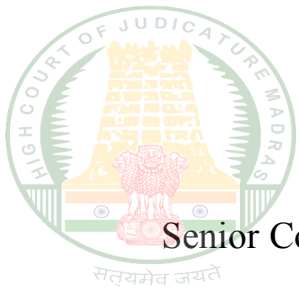
2.I have heard Mr.V.Raghavachari, learned Senior Counsel for the petitioner, Mr.K.Myilsamy, learned counsel for the respondents 1 to 3 and Mr.D.Gopal, learned Government Advocate for the 12th respondent.



3.Mr.V.Raghavachari, learned Senior Counsel for the petitioner would

submit that the suit is a sheer and gross abuse of process of law, the plaintiffs have approached the Court after much water has flown and the parties having alienated their shares to innocent third parties as well. He would take me through the averments in the plaint and state that as between the family members, there was a family arrangement in the year 2001 and disowning the the said family arrangement and allotment of shares thereunder, the legal heirs of the one of the brothers to the said family arrangement has filed the suit in the year 2024. He would further submit that the husband and father of the plaintiffs died even in April 1999 and even the other brother, under whom the defendants claims, also died in 2016 subsequently. The husband and father of the plaintiffs never questioned the family arrangement that had taken place in the year 2001. He would further state that the said family arrangement has been acted upon and subsequently properties have also been sold by both parties.

4.Pointing out to various alienations, the learned Senior Counsel would state that the property had gone out of the hands of the family even in the year 2007 to the full knowledge of the plaintiffs and the share that was allotted to the other brother also settled by him to his sisters in February 2009. Pointing out to the various alienations and third party interests also being created, the learned



Senior Counsel for the petitioner would further submit that the plaint is liable to be struck off as being a clear abuse of process. He would further state that the provisions of Order VII Rule 11 of CPC are not a mantra and it is not necessary for the defendants to be forced to invoke the provisions of Order VII Rule 11 of CPC and this Court under Article 227 of the Constitution of India is entitled to interfere to prevent such abuse of process and nip any vexatious and frivolous actions at law, in the bud.

5.The learned Senior Counsel for the petitioner would place reliance on the following decisions, in support of his contention, seeking striking off the plaint:

1.Uma Devi & Others Vs. Anand Kumar and Others (Spl.Leave Petition (Civil) No.2137 of 2025 dated 02.04.2025).

2.B.Rajamani and Others Vs. N.Gunasekaran and Another (2023 SCC Online Mad 5275).

3.S.P.Chengalvaraya Naidu (Dead) by LRS Vs. Jagannath (Dead) by LRS and Others (1994) 1 SCC 1)

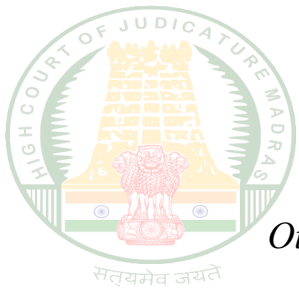
4.K.K.Modi Vs. K.N.Modi and Others (1998) 3 SCC 573).

5.Vijayalakshmi Vs. R.Balasubramaniam (C.R.P(NPD).No.4171 of 2010 dated 13.07.2018).

6.D.Radhakrishnan and Another Vs. The Executive Officer, Arulmigu Adikesava Perumal Thirukoil, Korattur, Chennai and Others (C.R.P(PD)No.4220 of 2018 dated 24.04.2019).

7.K.Akbar Ali Vs. K.Umar Khan and Others (Spl Leave Petition (Civil) No.31844 of 2018 dated 12.02.2021).

8.Nalina Ammal and Another Vs. A.Senthilkumar and



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Others (C.R.P(PD)No.1935 of 2021 dated 24.02.2022).

9.Ramisetty Venkatanna and Another Vs. Nasyam Jamal

Saheb and Others (2023 SCC Online SC 521).

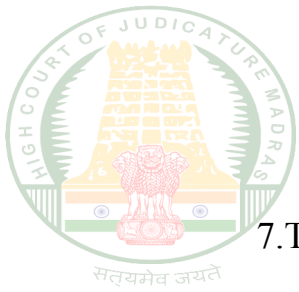
10.Kameshwari Devi and Others Vs. Barhani and Others (1997) 10 SCC 273).

11.Ranganyakamma and Another Vs. K.S.Prakash and Others (2008) 15 SCC 673)

12.Meyyammai @ Baby Sevugan Vs. Karuppanan @ Karuvayan and Others (C.R.P(MD)No.749 of 2016 dated 20.12.2023).

13.Vishnu Sneha Vs. M/s.Sree Daksha Property Developers (India) Pvt., Ltd (A.S.No.2 of 2022 dated 06.02.2025).

6.Per contra, Mr.Mylsamy, learned counsel appearing for the respondents 1 to 3/plaintiffs would submit that the respondents have an effective alternate remedy under Order VII Rule 11 of CPC and without resorting to the same, the present revision under Article 227 of Constitution of India is not maintainable. He would further submit that the plaintiffs have approached the Court with a specific cause of action, seeking various reliefs, challenging several registered documents that have come to be executed and all these claims can be adjudicated only after parties lead oral and documentary evidence and this Court would not interfere, exercising the extraordinary and discretionary power available under Article 227 of Constitution of India, which is only supervisory in nature and not to be resorted to in a routine manner, but only in extreme cases.



7.The learned counsel for the respondents 1 to 3 would further state that even according to the revision petitioners, in respect of lands other than five acres of the layout property, in all other transactions, the plaintiffs themselves were parties and they cannot belatedly question their own actions, the minors have also attained majority several years back and they have also not questioned the transactions within a period of three years from their respective dates of attaining majority in the years 2003 and 2004. It is also seen that the plaintiffs also joined in executing the Gift Deed. He would therefore contend that all these issues have to be tried by the parties, leading oral and documentary evidence.

8.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioners and the learned counsel for the respondents.

9.Admittedly, the suit that is sought to be struck off, is seeking not only the reliefs of declaration of various documents to be null and void, but also for a partition and allotment of the plaintiffs' share in the suit properties. Though it is contended by the learned Senior Counsel that the family arrangement of the year 2001 was acted upon and was never questioned for several years and even during the lifetime of the parties to the family arrangement, they have not chosen to question the same, I am unable to accept the submissions of the



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learned Senior Counsel that it is a case warranting invocation of the discretionary power under Article 227 of Constitution of India to strike off the plaint for two reasons. Firstly, the relief of partition is sought for in addition to various reliefs of declaration. Even assuming that some or all of which may also be time barred, however, even according to the defendants, in respect of five acres of layout property, the plaintiffs are not parties to any documents and in such circumstances, at least in respect of the said five acres, the parties will be required to lead oral and documentary evidence. Secondly, the issue of limitation is always a mixed question of fact and law and when even according to the defendants, there is scope for trial of the suit in respect of five acres of layout property. Though this has not been expressly admitted, it is borne out of even the affidavit filed in support of the stay application in this revision petition.

10. Most of the judgments that have been relied on, especially those of the Hon'ble Supreme Court are all decisions which have arose under Order VII Rule 11 of CPC and not matters that have been decided where the High Court had exercised power under Article 227 of Constitution of India, to strike off the plaint. No doubt, this Court has power to strike off plaints invoking Article 227 of Constitution of India and the decisions in this regard have been relied on in support of the same by the learned Senior Counsel for the petitioner.



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11. In the light of the fact that the judgments of the Hon'ble Supreme Court that have been relied on by the learned Senior Counsel for the petitioner are all arising only under Order VII Rule 11 of CPC, I am not inclined to take away the valuable right of appeal that may be available to the plaintiffs in the event of their being non-suited ultimately, after a full-fledged trial. The supervisory power under Article 227 of the Constitution of India should not be exercised where there is an alternate remedy available to the parties under the code itself, viz., Order VII Rule 11 of CPC, as in the event of this Court striking off the plaint falling back on the limbs of Order VII Rule 11, then the defendants will lose their valuable right of appeal which would have been available if the Order VII Rule 11 of CPC petition had been allowed.

12. It cannot lie in the mouth of the defendants to even contend that they do not have an effective remedy under Order VII Rule 11 of CPC. The defendants can always take recourse to provisions of Order VII Rule 11 of CPC where limitation can be urged as one of the grounds, namely the suit being barred by any law and the Trial Court can always decide as to whether from a reading of the plaint, the suit is barred by law of limitation and if found so, the plaint can be rejected.



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13. In view of the foregoing discussion, I am not inclined to exercise the supervisory powers available under Article 227 of Constitution of India to strike off the plaint.

14. In view of the above, giving liberty to the petitioners to move an application to reject the plaint, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

14.07.2025

Speaking/Non-speaking order

Index : Yes/No

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To

1. The Principal District Court, Tiruppur.
2. Sub-Court cum Assistant Sessions Judge, Udumalpet.

P.B.BALAJI.J.

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Pre-delivery order made in
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