



C.R.P.No.4260 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4260 of 2022

K.Arumugham

.. Petitioner

Versus

1.K.Kalidoss

2.S.Booshnam

3.N.Chinnapaiyan

4.N.Kuppusamy

.. Respondents

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India against order and decretal order dated 29.08.2022 passed in I.A.No.241 of 2019 in O.S.No.30 of 2019 by the Additional Subordinate Judge, Chengalpattu.

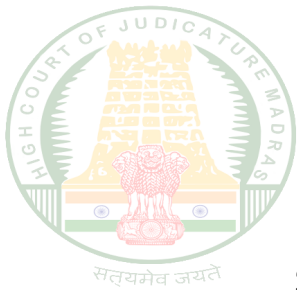
For Petitioner : Mr.S.L.Venkatesan

For Respondents 1 : Mr.K.Elumalai,
for Mr.S.Anburaj

For Respondents
2 to 4: No appearance

ORDER

This civil revision petition impugnes the order of the learned Additional Subordinate Judge, Chengalpet in I.A.No.241 of 2019 in O.S.NO.30 of 2019 dated 29.08.2022.



C.R.P.No.4260 of 2022

WEB COPY

2. The civil revision petitioner is the first defendant and the contesting first respondent is the plaintiff. O.S.No.30 of 2019 has been filed for the following reliefs:

“a) passing a preliminary decree directing that the 'A' schedule properties be divided into 4 equal shares by metes and bounds and by appointing an advocate commissioner to suggest a mode of division and to allot one such equal share to the plaintiff;

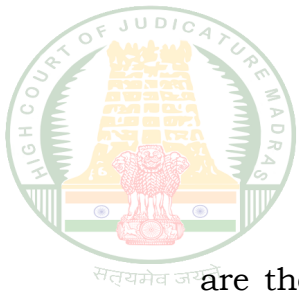
b) direct the 1st defendant herein to hand over possession of the 'B' schedule properties to the plaintiff;

c) order enquiry into the mense profits of the suit properties;

d) direct the defendants herein to pay costs of the suit to the plaintiff.”

3. For the sake of convenience, the parties will be referred to as per their ranks in the suit.

4. It is the case of the plaintiff that his grandmother, one Rajammal had purchased 'B' schedule mentioned properties on 23.05.1966. The grandfather of the plaintiff, one Narayanasamy Naicker had acquired the 'A' schedule mentioned properties. The said Narayanasamy Naicker passed away intestate in the year 1989, leaving behind as his legal heirs, his wife Rajammal and three sons, namely, Kuppusamy, Sekar and Chinnapaiyan. Kuppusamy and Chinnapaiyan

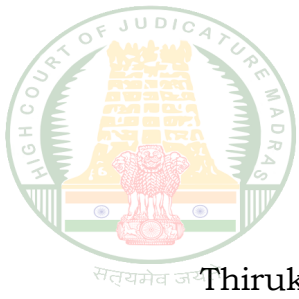


C.R.P.No.4260 of 2022

are the defendants 3 and 4 in the suit. The defendants 2 and 3, along with Sekar had executed a sale deed on 22.05.2012, in favour of the first defendant who had purchased the 'A' schedule mentioned property. The plaintiff pleads that Rajammal was not a party to the said sale deed.

5. The plaintiff claimed that the first defendant could not have obtained absolute rights to the property, excluding the two co-sharers. He further added that Rajammal, in her sound and disposing state of mind, had executed a “**WILL**” dated 05.03.2014, registered in Document No.15 of 2014, bequeathing her undivided 1/4th share in the properties of her deceased husband, Narayanasamy Naicker, as well as 1/5th share in the property of her deceased son Sekar, in the plaintiff's favour. He further added that on 14.07.2016, another document of “**WILL**” came to be executed on the same lines. As a legatee of Rajammal, the plaintiff claimed 1/4th share in the 'A' schedule properties, and the entire extent in the 'B' schedule property and consequently, presented the suit for the aforesaid reliefs.

6. Summons were served on the parties and the first defendant presented an application for rejection of plaint. He pleaded that he had purchased all the suit items from the sons of Narayanasamy Naicker, as well as from Booshnam, the second defendant, under a registered sale deed in document No.2600 of 2012, on the file of the Sub Registrar at

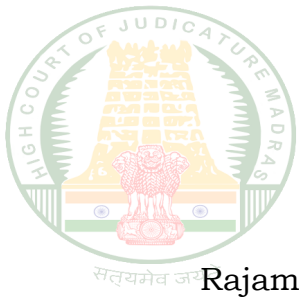


C.R.P.No.4260 of 2022

WEB COPY

Thirukalukundram. He pleaded that he is a bonafide purchaser for value and had paid the full consideration to the owners. He added that on account of the disturbance that has been caused by the plaintiff and other defendants, he presented a suit for permanent injunction in O.S.No.200 of 2014 on the file of the District Munsif cum Judicial Magistrate at Thirukalukundram. He pleaded that in the said suit, he had filed two injunction applications for interim orders and the learned District Munsif cum Judicial Magistrate was also pleased to grant the relief sought for by him.

7. The first defendant further added that the appeals preferred from these two orders in CMA.Nos.1 and 3 of 2016, before the Principal Subordinate Judge at Chengalpet came to be dismissed for default. He added that the suit itself was presented subsequently, only in order to harass him. He further pleaded that the share of Kuppusamy, the father of the plaintiff, who had been allotted certain property in a partition, had been settled in favour of the plaintiff in document No.5011 of 2005, on the file of the very same Sub Registrar on 21.11.2005. He pleaded that a perusal of the settlement deed would go to show that there had been a partition amongst the children of Narayansamy Naicker, and no properties had been allotted either to Narayanasamy Naicker, or to



C.R.P.No.4260 of 2022

WEB COPY

Rajammal, so as to enable Rajammal to execute a “**WILL**” in favour of the plaintiff. On these and other averments, he sought for rejection of plaint.

8. Learned Additional Subordinate Judge numbered the application as I.A.No.241 of 2019 and ordered notice to the respondent/plaintiff. The respondent filed a detailed counter pleading that the application is untenable and that, the first defendant has made reckless allegations in order to get the plaint rejected. He sought for dismissal of the application.

9. The learned Trial Judge heard both sides and dismissed the application for rejection of plaint, leaving it open to the parties to raise the pleas raised in the rejection of plaint application at the time of disposal of the suit. Aggrieved by the same, the present civil revision petition.

10. I heard Mr.S.L.Venkatesan for the petitioner and Mr.K.Elumalai representing Mr.S.Anburaj for the first respondent.

11. Learned counsels appearing on both sides reiterated their contentions they placed before the trial court.



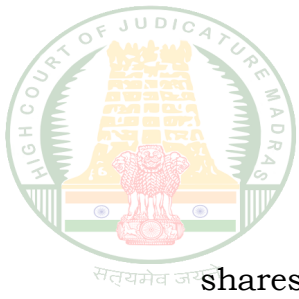
C.R.P.No.4260 of 2022

WEB COPY

12. I have gone through the records and applied my mind to the facts of the case.

13. An application for rejection of plaint should be tried on the basis of reading of the plaint and the documents annexed therewith. The defence raised by the defendants is absolutely irrelevant for the purpose of consideration of such an application. This is because rejection of a plaint, being a plea in demurrer, requires the court to take the averments made in the plaint to be true and thereafter, place the plaint next to Order VII Rule 11 of the Code and in case, the plaint attracts any one of the provisions under the said Order 7 Rule 11, it proceeds to reject the plaint. At that stage, however sterling the defence of the defendants might be, the court is not entitled to look into the same.

14. The plea raised in this case is that the grandmother of the plaintiff, Rajammal, had no right to bequeath the property in favour of the plaintiff. This is based on a settlement deed, which was not presented by the plaintiff along with his plaint. The settlement deed would have to be produced by the defendants in a manner known to law during the course of trial. Thereafter, he can urge before the court that the plaintiff is not entitled to the benefits he has sought for. Whether Rajammal had a share or whether Narayanasamy Naicker had given away whatever



C.R.P.No.4260 of 2022

WEB COPY

shares he had in favour of his sons are all matters which require evidence. When a matter requires evidence, it certainly cannot be a subject matter of rejection of the plaint. That being the position of law, I do not find any reason to take a different opinion to that taken by the learned Additional Subordinate Judge.

15. The Civil Revision Petition is dismissed. No costs. Needless to add that whatever plea, that has been raised by the first defendant in his rejection of plaint application, it is to be raised at the time of disposal of the suit, in case, he had pleaded the same in his written statement.

25.08.2025

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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C.R.P.No.4260 of 2022

To

1.The Additional Subordinate Judge, Chengalpattu



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C.R.P.No.4260 of 2022

V.LAKSHMINARAYANAN, J.

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C.R.P.No.4260 of 2022

25.08.2025