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C.R.P.No.4287 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4287 of 2022

Lalitha

.. Petitioner

Versus

J.Sathiyannarayanan

.. Respondent

Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair and decretal order dated 16.11.2022 passed in I.A.No.3 of 2022 in O.S.No.182 of 2012 on the file of the District Munsif, Gudiyattam

For Petitioner : Mr.R.Selvakumar,
for Mr.M.Marudhachalam

For Respondent : Mr.S.Bala Ganesh
for Mr.T.M.Hariharan

ORDER

The plaintiff is the civil revision petitioner. The plaintiff has filed a suit in O.S.No.182 of 2012 for the following reliefs:

“a. Declaring that the registered sale deed dated 11.05.2011 created by the defendant in respect of the common undivided shares of Nagarathinammal the Mother of the plaintiff is illegal, null and void;

b. granting permanent injunction restraining the defendant, his power holders, legal heirs, agents and servants from in any manner interfering with the



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C.R.P.No.4287 of 2022

peaceful possession and enjoyment of the plaintiff in the schedule mentioned suit properties until the common undivided 102/162 shares of Thulasi Chetty purchased by the defendant is worked out in partition suit filed by him;

c. directing the defendant to pay the costs of this suit to the plaintiff; and

d. to grant such other relief or reliefs as to this Hon'ble Court they think fit and proper under the circumstances of the case.”

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

3. The case of the plaintiff is that the suit schedule mentioned property was purchased by one Venugopal Chetty, her father. On the death of Venugopal Chetty, the plaintiff and her mother, Nagarathinammal started enjoying the same. She pleaded that on 06.08.2012, the defendant attempted to interfere with her possession and enjoyment of the suit schedule mentioned property. She added that a suit in O.S.No.91 of 1996 had been filed by the plaintiff and her mother against one Thulasi Chetty, the brother of the plaintiff's father.

4. In turn, Thulasi Chetty had presented another suit in O.S.No.276 of 1997 on the file of the District Munsif at Gudiyattam,



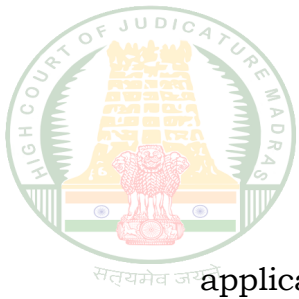
C.R.P.No.4287 of 2022

WEB COPY

seeking partition and separate possession against the plaintiff and her mother, Nagarathinammal, and one Rajammal, the mother of Venugopal Chetty. The plea of Thulasi Chetty was that Venugopal Chetty had purchased the suit schedule mentioned property from and out of the income generated by the joint family, consisting of Venugopal Chetty, Thulasi Chetty and another brother, Manavalan, and their father, Govinda Chetty.

5. The plaintiff pointed out that the suit filed by her was dismissed and the suit filed by Thulasi Chetty was decreed. Appeals preferred therefrom in A.S.No.15 of 2007 and A.S.No.19 of 2007 to the file of Subordinate Judge also ended in dismissal. The plaintiff urged that the second appeals preferred to this court in SA.No.1056 of 2009 and S.A.No.1055 of 2009 were also dismissed. In otherwords, the relief of partition sought by Thulasi Chetty and the relief of declaration and permanent injunction sought by the plaintiff herein had attained finality.

6. The plaintiff pleaded that in order to convert the preliminary decree into an executable final decree, an application was filed by Thulasi Chetty in I.A.No.91 of 2011 in O.S.No.276 of 1997 on the file of the District Munsif, Gudiyattam. After having presented the final decree



C.R.P.No.4287 of 2022

WEB COPY

application, the said Thulasi Chetty had alienated the property in favour of the defendant. Hence, the suit for the aforesaid reliefs.

7. The defendant entered appearance and filed a detailed written statement. He admitted that he had purchased 102/162 common shares in the suit property from Nagarathinammal and from the legal heirs of Thulasi Chetty. He pleaded that the plaintiff was never in possession of the property and that she had settled in the neighbouring State of Andhra Pradesh. He pleaded that as the building was old, dilapidated and damaged due to natural causes, he pulled it down. On these pleas, he sought for dismissal of the suit.

8. The parties went for trial and the evidence has been concluded.

9. When the suit was posted for arguments, the plaintiff took out an application seeking amendment of the plaint for a declaration that the defendant, being an alleged purchaser of the common undivided share of Hindu Undivided Joint Family Property, is not entitled for joint possession of the same along with the other coparceners. This amendment application was received as I.A.No.3 of 2022. It was opposed by the defendant as barred by time.



C.R.P.No.4287 of 2022

WEB COPY

10. Learned District Munsif took up the application and dismissed the same as belated. Aggrieved by the same, the present civil revision petition.

11. I heard Mr.R.Selvakumar representing Mr.M.Marudhachalam for the civil revision petitioner and Mr.S.Bala Ganesh representing Mr.T.M.Hariharan for the respondent.

12. The learned counsel reiterated the contentions they made out before the trial court.

13. I have carefully considered the submissions of both counsels and have gone through the records.

14. It is not in dispute that the defendant is a purchaser of joint family property. He purchased 102/162 shares. The previous round of litigation has concluded that the shares belong to the vendors of the defendant. It is a settled position of law that a purchaser of a joint family property is not entitled to take possession of the property without bringing forth a suit for general partition.



C.R.P.No.4287 of 2022

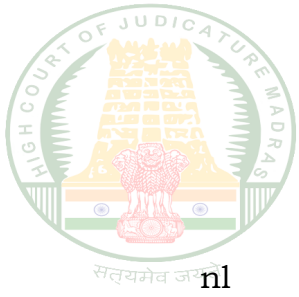
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15. Yet in this case, the defendant is not a purchaser prior to the partition suit. He is a purchaser when the final decree petition in the partition suit was pending. Applying the principle of *lis pendens*, whatever right that the vendor of the defendant would be entitled to, a stranger purchaser is entitled to seek for equity before the final decree court and ask for allotment of shares to the extent purchased by him. For the said purpose, an application for amendment of pleadings is absolutely unnecessary as it is a pure question of law. I would in fact say that the present suit itself is unnecessary. Though the earlier final decree application has been dismissed for default, the parties can always file a fresh application and have their rights adjudicated in such a final decree application.

16. Be that as it may, as the suit is pending for more than 13 years now, the relief sought for by Mr.R.Selvakumar's client need not be granted by way of an amendment. It is always open to the plaintiff her to urge the said issue, by way of arguments, at the time of final disposal of the suit.

17. With the above observation, the civil revision petition is dismissed. No costs.

25.08.2025



C.R.P.No.4287 of 2022

WEB COPY

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

To

1.The District Munsif, Gudiyattam



WEB COPY



C.R.P.No.4287 of 2022

V.LAKSHMINARAYANAN, J.

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C.R.P.No.4287 of 2022

25.08.2025