



WEB COPY



CRP No.592 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRP NO.592 OF 2020

Rajkumari ... Petitioner /
3rd Respondent /
3rd Defendant

Versus

1.Saradhammal
2.Pathima Madanthai
3.Anusuya ... Respondents 1-3 /
Petitioners /
Plaintiffs

Karthikeyan (Deceased)

4.Sundaramoorthy ... 4th Respondent /
2nd Respondent /
2nd Defendant

5.Vanamayal
6.Dhanachezhiyan
7.Janaki
8.Arunthathi
9.Vasuki
10.Minor Praveen Kumar
Son of Ragupathy
Represented by Court Guardian
M.Kirubapuri

... Respondents 5 - 10 /
Respondents 4 - 9 /
Defendants 4 – 9



CRP No.592 of 2020

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950 praying to set aside the Order and decretal Order in I.A.No.379 of 2019 in Survey No.48 of 2012 dated October 3, 2019, on the file of the Principal District Munsif Court, Ulundurpet.

For Petitioner : Ms.R.Poornima

For Respondent-2 : Mr.T.Gandhi

For Respondent-3 : Passed away

For Respondents
1 and 4 to 10 : Served – No appearance

ORDER

Feeling aggrieved by the Order dated October 3, 2019 passed by the 'Principal District Munsif Court, Ulundurpet' ['Trial Court' for short] in I.A.No.379 of 2019 in O.S.No.48 of 2012, the Revision Petitioner/ third respondent / third defendant has preferred this Civil Revision Petition under Article 227 of the Constitution of India, 1950.

2.The Revision Petitioner herein is the third defendant and the Respondents 1 to 3 herein are the plaintiffs; fourth respondent herein is the second defendant and respondents 5 to 10 are the defendants 4 to 9 in the Original Suit in O.S.No.48 of 2012. For the sake of convenience,



hereinafter, the parties will be referred to as per their array in the Original Suit.

3.The plaintiff filed a Suit for partition and other reliefs against the defendants in O.S.No.48 of 2012, in which, the second defendant filed a written statement stating that an extent of 3.75 Acres in Survey No.36/4 was omitted in the schedule / description of property mentioned in the plaint. Therefore, the plaintiff filed an Interlocutory Application to include the said extent in Survey No.36/4 and the same was allowed and the said property was shown as Item No.24 in the 'B' Schedule Property of the Suit.

4.Thereafter, the third defendant filed written statement stating that Survey No.36/4 does not belong to the plaintiffs and the defendants 1 and 2 and the said Survey Number has to be deleted from the Suit Properties. Hence, the plaintiffs filed an Interlocutory Application under Order VI Rule 17 of the Code of Civil Procedure, 1908 in I.A.No.379 of 2019 in O.S.No.48 of 2012 praying to delete Item No.24 – Acres 3.75 Cents in Survey No.36/4 of 'B' Schedule Property of the Suit.



5.The third defendant filed counter opposing to the

Application filed by the plaintiffs. The case of the third defendant is that when the main case is listed in the special listing, an Application under Order VI Rule 17 of CPC was filed only with a view to delay the trial. Further contention is that, the petitioner therein suppressed the true facts and pleaded as if Survey No.36/4 absolutely belongs to Krishnamoorthy, who is the father of Defendant Nos.1 and 2. Accordingly, she prayed to dismiss the Interlocutory Application.

6.The Trial Court, after hearing both sides, found that the Patta in respect of Survey No.36/4 stands in the name of Krishnamoorthy. Considering the averments made in the written statement filed by the second defendant, it allowed the Application filed for amendment and thereby, ordered to delete Item No.24 of 'B' Schedule Property namely, Survey No.36/4 in the plaint.

7.Feeing aggrieved by the said Order, the third defendant has filed this Civil Revision Petition.



8.Ms.R.Poornima, learned Counsel appearing for the Revision

Petitioner / third defendant submits that at the instance of the third defendant, Survey No.36/4 was added as Suit Item No.24. Whether an extent of 3.75 Acres in Survey No.36/4 is available and the same can be partitioned or not is a question of fact that can be decided only at the time of trial. Further, whether the plaintiff and the defendants are entitled to a share in it or not is a question of fact that to be gone through only at the time of trial. The Trial Court without considering these aspects, erred in allowing the Application. Accordingly, she prays to allow the Civil Revision Petition and set aside the Order passed by the Trial Court in I.A.No.379 of 2019.

9.In response to the above arguments, Mr.T.Gandhi, learned Counsel appearing for the second respondent / second plaintiff would submit that Survey No.36/4 is the absolute property of Krishnamoorthy and not a joint family property. Therefore, the plaintiffs and the defendants are not entitled to any share in it. Further, Survey No.36/4 is not available for partition between the parties. The Trial Court after considering these facts rightly allowed the Application. The course adopted by the Trial Court is in tune with law and there is no illegality or irregularity in the said



process followed by the Trial Court. Accordingly, he prays to dismiss the Civil Revision Petition.

10.This Court has considered both sides submission. At the instance of the third defendant, an extent of 3.75 Acres in Survey No.36/4 was included in the Suit Property. Now, the contention of the second plaintiff is that the property is not a joint family property available for partition between the parties.

11.This Court is of the considered opinion that whether Survey No.36/4 is a joint family property or not or whether it is available for partition are a question that can be gone through only at the time of trial. Considering the stage of the case, this Court is of the considered view that no prejudice would be caused, to retain Survey No.36/4 in the array of Suit Properties. If in case the parties to the Suit establishes that Survey No.36/4 is a joint family property available for partition between the parties, once again Survey No.36/4 needs to be added in the Suit Schedule Properties, which means multiplicity of proceedings. To avoid multiplicity of proceedings and in the interest of justice, this Court is of the view that the Trial Court ought not to have allowed the Interlocutory Application to



delete the Survey No.36/4 from the array of Suit Schedule properties. The Trial Court has committed gross error which affects the rights of the parties to the Suit. Hence, this Court is inclined to allow this Civil Revision Petition.

12. Accordingly, this Civil Revision Petition is allowed and the Order and decretal Order dated October 3, 2019, passed in I.A.No.379 of 2019 in O.S.No.48 of 2012 by the Trial Court is hereby set aside and the aforesaid Interlocutory Application is dismissed. Considering the age of the Suit, the Trial Court is advised to dispose of the Original Suit in an expeditious manner. Both sides are directed to cooperate with the Trial Court for expeditious disposal of the Suit. Considering the facts and circumstances of the case, there shall be no order as to costs.

31.10.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
TK

To
The Principal District Munsif
Principal District Munsif Court
Ulundurpet.



WEB COPY



CRP No.592 of 2020

R.SAKTHIVEL, J.

TK

CRP NO.592 OF 2020

31.10.2025

Page No.8 of 8