



CRP.No.5281 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5281 of 2025 and
CMP.No.26525 of 2025

Madheswari

... Petitioner

Vs.

1. Sasikala

2. Minor Akash

(Represented by his next friend/mother

1st respondent Sasikala)

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India,
praying, to set aside the order dated 04.08.2025 rendered in IA.No.5/2023 in
OS.No.253/2019 on the file of Principal Sub Court, Namakkal.

For Petitioner

: Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates.



ORDER

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The civil revision petition is filed challenging the order passed by the court below dismissing the application filed by the petitioner/1st defendant under Section 10 of CPC seeking stay of the suit.

2. The respondents 1 and 2 filed a suit for partition in respect of two survey numbers namely S.Nos.56/1 and 56/2. The petitioner who was arrayed as 1st defendant in the suit filed an application under Section 10 of CPC seeking stay of the suit on the ground that earlier suit filed by him for partition was dismissed by the Trial Court and the second appeal arising out of said suit is still pending with the High Court. The application filed under Section 10 of CPC by the petitioner was dismissed by the Trial Court. Not satisfied with the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner submitted that the second appeal arising out of suit for partition filed by the petitioner is already pending with the High Court and any decision thereon would have a bearing on the present suit. Therefore, the trial Court ought have stayed the suit in terms of Section 10 of CPC.

4. As stated earlier, the present suit is in respect of properties situated in



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two survey numbers namely S.Nos.56/1 and 56/2.

5. A perusal of the plaint in the earlier suit filed by the petitioner would indicate that the said suit was filed only in respect of properties situated in S.No.56/1. Therefore, it is clear that property situated in S.No.56/2 which is also shown as a suit property in the present suit for partition was not subject matter of the earlier suit. When the subject matter in both the suits are not one and the same, one of the essential condition for invoking doctrine of *res sub judice* is not at all satisfied. Hence, the Court below is justified in dismissing the application filed by the petitioner seeking stay of the suit under Section 10 of CPC. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

04.11.2025

Index : Yes / No

Internet : Yes / No

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To

The learned Principal Sub Judge, Namakkal.

S.SOUNTHAR, J.

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