



C.R.P.No.5639 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.5639 of 2025
and
C.M.P.No.28211 of 2025

Sivagamaselvan

... Petitioner

VS.

1.Tamilselvi

2.Rajendran

3.Manjula

4.Latha

5.Palanisamy

6.Velvizhi

7.Minor Kamalesh

S/o.Karthikeyan

Represented by his mother natural guardian,

Velvizhi,

W/o.Karthikeyan

Perunthurai Village,

Viruthachalam Taluk,

Cuddalore District.



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8.Minor Gopinath,
S/o.Karthikeyan
Represented by his mother natural guardian,
Velvizhi,
W/o.Karthikeyan,
Perunthurai Village,
Viruthachalam Taluk,
Cuddalore District.

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.339 of 2024 on the file of the Principal Subordinate Court, Virudhachalam, as being an abuse of the process of law; consequently, dismiss the said suit with costs.

For Petitioner : Mr.J.Pradeep
for M/s.A.Rajaperumal

ORDER

The Civil Revision Petition is filed seeking to strike off the plaint filed by the 1st respondent in O.S.No.339 of 2024 on the file of the Principal Subordinate Court, Virudhachalam.

2. The 1st respondent herein filed a suit for partition of her 1/6th share



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in respect of four items of properties. The 8th defendant in the suit filed the revision petition seeking to strike off the plaint on the ground it is a re-litigation. According to the learned counsel for the petitioner, the vendor of the petitioner namely Dhiravidaselvi filed a suit for declaration of title and for permanent injunction against the 1st plaintiff/plaintiffs' father Chinnadurai in O.S.No.473 of 1990 on the file of Principal District Munsif Court, Virudhachalam and the said suit was decreed. The appeal filed by above said Chinnadurai in A.S.No.128 of 2007 on the file of Additional Sub Court, Virudhachalam was partly allowed and the Trial Court judgment was set aside in respect of Item No.5 in the said suit and in respect of Items 1 to 4 in the said suit, the judgment and decree passed by the Trial Court was confirmed. Aggrieved by the same, the said Chinnadurai filed an appeal before this Court in S.A.No.686 of 2010 and the same was dismissed. Therefore, according to the learned counsel for the petitioner the present suit for partition filed by 1st respondent, who is claiming under Chinnadurai, the plaintiff in the earlier suit is nothing but an abuse of process of the Court or re-litigation.



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3. A comparison of the schedule of property found in present plaint and the schedule of property found in the earlier suit would indicate that the 4th item in the present suit was described as 5th item in the earlier suit. The fact remains the suit for declaration and injunction filed by the petitioner's vendor Dhiravidaselvi was dismissed in respect of 5th item of suit property. Therefore, the judgment and decree relied on by the learned counsel for the petitioner will not bar the present suit filed by the 1st respondent in so far as present 4th item is concerned. When there is no legal impediment for the 1st respondent to maintain a suit in so far as 4th item of suit property is concerned, the prayer sought for by the petitioner to strike off the plaint cannot be entertained.

4. It is settled law a plaint cannot be rejected in part or in respect of a portion of the suit claim. When the earlier judgment and decree will not bar the present suit in respect of 4th item of the suit property, this Court is not inclined to exercise its power to strike off the plaint.

5. Accordingly, the Civil Revision Petition stands dismissed.



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However, it is open to the petitioner to raise the question of *res judicata* in respect of Item Nos.1 to 3. Any such plea shall be considered by the Trial Court on its own merits without being influenced by anything said in this order. No costs. Consequently, the connected civil miscellaneous petition is closed.

14.11.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal Subordinate Court,
Virudhachalam.



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S.SOUNTHAR, J.

dm

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