



Crp.No.69 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.69 of 2025
C.M.P.No.633 of 2025

V.Kannan

...Petitioner

Vs.

1.P.Pachiyappan

2.Murugan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order in I.A.No.3 of 2023 in O.S No.9065 of 2021 dt. 08.07.2024 on the file of XIX Additional Judge City Civil Court, Chennai.

For Petitioner : Mr.R.Vijayaraghavan

ORDER

The plaintiff is the civil revision petitioner before this Court, challenging



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the dismissal of his application filed for receiving the reply statement.

2.The brief facts which has led to the filing of this Civil Revision Petition is herein below set out briefly. Parties are referred to in the same ranking as before the trial Court.

The plaintiffs had filed O.S.No.9056 of 2021 on the file of the learned XIX Additional Judge, City Civil Court, Chennai, for a partition and separate possession of his half share in the suit schedule property which is a building measuring 950 sqft situate at door No.15/29, Gandhi Street, West Mambalam, Chennai 600 033, with a right to enjoy the land to an extent of 1050 sqft within a specified boundaries.

3.The plaintiff would submit that this property was originally in the enjoyment of his father Vasudevan along with his mother Govindammal and his brother Elumalai for over sixty years. Vasudevan died on 07.07.2003 leaving behind him the surviving his wife Varadhambal, his mother Govindammal and the plaintiff. The brother of Vasudevan had died issueless, a bachelor. The plaintiff's mother and grand mother also passed away and the plaintiff is the only legal heir of late Vasudevan. The defendants 1 and 2 are the plaintiff's cousins through his paternal aunt. The plaintiff would submit that the defendants who were permitted



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to reside in the suit property attempted to put up a new construction and occupy a larger extent of the property. Even assuming that the defendants 1 and 2 are entitled to a share in the property they are entitled only to a half share. Plaintiff had tried to work out a solution for the enjoyment of the property. However, it did not yield the desired result. Therefore, the plaintiff had come forward with the suit in question.

4.The defendants had filed a written statement, *inter alia*, denying the contentions raised in the plaint. It is their case that it is the plaintiff who is in permissive occupation of the suit property. The defendants would submit that there is an error in the name of the first defendant who is Pachiyappan, in the short and long cause title he has been described as P.Selvam. The suit property had been settled under a registered koorchit by the original owners namely Rangasamy and his brother Mottai Naicker in favour of his daughter Amirthavalli fifty years back. The said Amirthavalli was in possession and enjoyment of the property since the date of the koorchit. The electricity service connection, water taxes etc stood in her name. Under a registered settlement deed dated 20.08.2020, Amirthavalli had settled the property in favour of her two sons who are none else than the defendants herein.



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5.The defendants would submit that in the year 2010, they demolished the old superstructure and put up a new construction consisting of three portions along with the common passage measuring an extent of 3 ½ X 65 feet. The defendants are in occupation of two portions inside the building and the plaintiff had been permitted to reside there by the defendant's mother. The defendants had permitted the plaintiff to occupy the third portion which is abutting Gandhi Street measuring an extent of 240 sqft. The defendants would submit that the plaintiff has no right over the property and he is only a permissive occupant and therefore sought for the dismissal of the plaint.

6.Thereafter, the plaintiff had filed I.A.No.3 of 2023 seeking permission to file a reply statement. In the affidavit filed in support of the said application they would submit that the claim in the written statement that Amirthavalli had right in property is totally false and that the documents were all fabricated. Therefore, they sought to file a reply statement.

7.The first defendant for himself and on behalf of the second respondent



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had filed a counter stating that no reasons had been set out in the affidavit seeking leave to file a reply statement. They would submit that the facts are already known to the plaintiff even before the written statement is filed.

8.The learned XIX Additional City Civil Judge, Chennai, after hearing both parties dismissed the application. The learned Judge had observed that the statement in the written statement can very well be refuted in the proof affidavit to be filed by the plaintiff. Therefore, the reply statement is unnecessary and consequently dismissed the application. Challenging the same plaintiff is before this Court.

9.Heard the learned counsel appearing for plaintiff and perused the records.

10.The only ground of challenge is that the plaintiff has to place the correct facts in his pleadings and that no prejudice would be caused to the plaintiff. The written statement had been filed in June 2022 countering the claim of the plaintiff and recording the defendant's ownership. In other words, the defendants had set out a new case of title in respect of the property. The defendants are none else than the plaintiff's paternal aunt's sons and the plaintiff has himself admitted that the



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defendants have a half share in the property. However, the defendants would submit that the plaintiff is the defendants maternal uncle's son and have no share in the property.

11.As rightly pointed out by the learned XIX Additional City Civil Judge, Chennai, the averments that have been made in the written statement can always be clarified in the proof affidavit that the plaintiff would file as P.W.1 and examination of witnesses would clarify the said position. Therefore, the order passed by the learned XIX Additional City Civil Judge, Chennai, is very much in order and it does not require any interference.

12.Accordingly, the Civil Revision Petition is dismissed. No costs.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order



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To

The XIX Additional Judge City Civil Court, Chennai.



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P.T.ASHA, J.,

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