



WEB COPY

CRP No.5143 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 5143 of 2025 and
CMP No.25952 of 2025**

1. RAMALINGAM

S/o. Murugam Mudaliyar, 2/187,
Kovil Street, Indur Village and Post,
Nallampalli Taluk, Dharmapuri District.

2. Jeevan alias Jeevanandhan

S/o. late. Gnanasambandha Mudhali,
2/291, Papparapatti Road, Indur Village
and Post, Nallampalli Taluk,
Dharmapuri District.

3. Manoharan

S/o. Srinivasan 1/198, Pavadi Street,
Indur Post, Nallampalli Taluk,
Dharmapuri District.

Petitioner(s)

Vs

1. B.T.Appunu

S/o. Thandava Gounder, 2/307-3,
Indur Village and Post, Nallampalli
Taluk, Dharmapuri District.

Respondent(s)



PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 28.10.2024 made in IA No. 5 of 2024 in OS No 73 of 2017 on the file of the District Munsif Court, Dharmapuri by allowing this CRP.

For Petitioner(s): Mr. N. Manoharan

ORDER

This civil revision petition is filed, challenging the order passed by the court below, dismissing the application filed by the petitioners under Order XXIII, Rule 1 of CPC seeking leave to withdraw the suit in O.S.No.73 of 2017, with liberty to file a fresh suit on the same cause of action.

2. The petitioners/plaintiffs filed the above said suit for bare injunction restraining the respondents/defendants from interfering with their alleged possession over three items of the suit property. The said properties are the buildings and the properties are identified with reference to the building door number and electricity service connection number.

3. The respondent herein/defendant filed written statement and resisted the suit by denying the right of the petitioners over the suit property. A reading of the written statement would establish that there was a dispute between the



petitioners/ plaintiffs and the respondent/defendant with regard to the 3 feet pathway. However, the said 3 feet pathway is not the subject matter of the present suit. The present suit is filed only in respect of the building portion alone.

4. Before Trial Court, trial in the suit was already over and as per the affidavit filed by the petitioners in support of the petition seeking leave, arguments were advanced in the suit in the year 2024 itself and the matter was reserved for judgment. At this stage, the said application has been filed by the petitioners on the ground that the suit property has not been properly described and the said fact came to their knowledge now only.

5. If the petitioners are not satisfied with the description of the property given in the suit, atleast at the time of giving evidence, they should have filed the application. On the other hand, they participated in the trial and arguments were also advanced, without raising any objection, with regard to the description of the property. Therefore, it is clear that both the parties understood that the subject matter of the suit property based on the door numbers, mentioned in the plaint. After the matter was reserved for judgment, the petitioners filed this application. As mentioned earlier, the plaint is filed only in respect of building portion and it is not filed in respect of any adjacent land portion. The building can very well be identified with reference to the door



number. In such circumstances, I do not find any formal defect in the suit.

Hence, the petition filed by the petitioners/plaintiffs seeking withdrawal of the suit, with liberty to file a fresh suit on the same cause of action, at this stage cannot be entertained.

6. Accordingly, this civil revision petition is dismissed, confirming the impugned order passed by the court below. Connected miscellaneous petition is closed. There shall be no order as to costs.

29-10-2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The District Munsif Court,
Dharmapuri.



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S.SOUNTHAR J.

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