



CRP.No.5456 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5456 of 2025 and
CMP.No.27453 of 2025

1.C.Mohanasundaram
S.P.Muthusamy(Died)
2.S.M.Samiyathal
3.S.M.Balasubramani
4.S.M.Sathya

... Petitioners

Vs.

1.R.Selvakumar
2. Ashokkumar
3.K.V.Chinnasamy

....Respondents

PRAYER :Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the Fair and Final order dated 07.10.2025 made in I.A.No.12 of 2025 in O.S.No.46 of 2007 on the file of District Munsif Court, Perundurai.

For Petitioner : Mr.M.Guruprasad



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioners seeking to withdraw the suit with liberty to file a fresh suit on the same cause of action.

2. The petitioners filed a suit for declaration of title and injunction against the respondents. Pending suit, the petitioners received a legal notice from one Muthulakshmi claiming right over the suit property. Hence, the application has been filed by the petitioners seeking to implead the legal representatives of the said Muthulakshmi, who died by then in I.A.No.1 of 2019. The said impleading application was dismissed by the Trial Court. Without challenging the order of dismissal, the petitioners filed instant application seeking leave of the Court to withdraw the suit with liberty to file a fresh suit on the same cause of action.

3. In the affidavit filed in support of the instant application, the petitioners have averred that in order to make necessary pleadings, the petitioners may be permitted to withdraw the suit and file a fresh suit. The said application got dismissed by the Trial Court. Aggrieved by the same, the



petitioners have come before this Court.

4. In the affidavit filed in support of the instant application, the petitioners have not pointed any formal defect in the suit. It is their case that they received legal notice from one Muthulakshmi claiming right over the suit property and immediately petitions have been filed to implead the LR's of the said Muthulakshmi and the said application was already dismissed by the Trial Court. The petitioners have not challenged the dismissal of the impleading application and the said order attained finality. Now, the petition has been filed to withdraw the suit on the ground that counsel for the petitioner advised them to withdraw the suit in order to make necessary pleadings. Therefore, it appears that the plaintiffs want to fill up the lacunae in the pleadings by filing fresh suit on the same cause of action. In the light of the specific averment made in the affidavit, the prayer sought for by the plaintiffs cannot be granted. Further, the petitioners already filed the application to implead the legal representatives of said Muthulakshmi and the same was dismissed. The said order cannot be circumvented by filing a fresh suit on the same cause of action by impleading the persons against whom the impleading application was already dismissed.



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S.SOUNTHAR, J.

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