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CRP No.6099 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6099 of 2025 and
CMP No.30035 of 2025**

1. G.Sadhasivam
S/o. Ganesan, D.No.14,15,
Gandhipudur, 2nd street,
Varatharajapuram, Uppilipalayam Post,
Coimbatore - 641015.

Petitioner(s)

Vs

1. T.Leelakrishnan
S/O. Thiyagarajan, No.8, Shanmugha
Layout, Ondipudur (Post),
Coimbatore - 641016.

Saraswathy (Died)

2.UMAMAHESWARI
W/o. M. Natarajan, No.8,
Thambiyannan Road,
Ramanathapuram (Post),
Coimbatore - 045.

3.P. Shanmugasundram
S/o Late R. Palanisamy, No.83/6,
Cheran Nagar, Ittery Road, Pattanam,
Ondipudur (Post), Coimbatore - 016.

4.P. Natarajan
S/o. Late R. Palanisamy, No.24,
Thottasalaigal, Nandha Nagar,
Singanallur Post,
Coimbatore - 005.



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5.SHANTHAMANI

W/o. K. Arulnandham, No.40-B,
Bharathi Nagar, Ramanathapuram
(Post), Coimbatore - 045.

6.RAJAMANI

W/o. A. Dhandayuthapani, No.11,
Cheran Nagar, Ittery Road, Pattanam,
Ondipudur (Post), Coimbatore - 016.

7.The Sub Registrar

Singanallur, Office of the Sub Registrar,
Trichy Road, Coimbatore - 016.

8.The Tahsildhar

Coimbatore South Taluk, Office of the
Coimbatore South Taluk,
Coimbatore - 018.

9.The District Collector

Coimbatore Collectorate Campus,
Hazur Road, Coimbatore - 018.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the impugned order dated 02.09.2025 allow the petitioners application in IA No.8 of 2025 in OS No.468 of 2020 and transpose the petitioner as the 2nd plaintiff in OS No.468 of 2020 and pass such other orders as this Honble Court.

For Petitioner(s): Mr. Balakumar A.

For Respondent(s) : Mr.P.Gurunathan,
Addl.Govt.Pleader for R7 to R9



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioner/1st defendant, seeking to transpose himself as 2nd plaintiff in the suit.

2. Mr.P.Gurunathan, learned Additional Government Pleader takes notice for the respondents 7 to 9.

3. The first respondent herein/plaintiff filed a suit in O.S.No.468 of 2020 seeking specific performance based on the sale agreement dated 03.01.2017 against the petitioner herein and other respondents. The petitioner was arrayed as 10th defendant in the suit. According to the first respondent/plaintiff, he and the petitioner herein had entered into an agreement with the defendants 1 to 6 to purchase the suit property for a total sale consideration of Rs.1,20,60,000/-. It is the further case of the plaintiff that a sum of Rs.5,00,000/- was paid as advance by the first respondent/plaintiff and the petitioner herein. As per the terms of the sale agreement, the petitioner and the first respondent herein agreed to pay the remaining sale consideration jointly and severally to the defendants 1 to 6 and on such payment of remaining sale consideration, the defendants 1 to 6 have to execute the sale deed in the name of the petitioner or the first respondent or the persons nominated by them, within seven months time. Since the



defendants 1 to 6 failed to execute the sale deed, the suit was filed by the first respondent/plaintiff for specific performance.

4 .The petitioner/10th defendant, who entered appearance in the suit was set exparte and thereafter, the exparte order was set aside on the application filed by the petitioner. Now, the instant application has been filed by the petitioner seeking to transpose himself as 2nd plaintiff in the suit. The said application was filed under Order 23 Rule 1A of CPC. The Trial Court dismissed the application on the ground that the ingredients of the said provisions are not satisfied. Aggrieved by the same, the petitioner has come before this court.

5. The learned counsel for the petitioner would submit that as per the plaint averment itself, sale agreement was entered into jointly by the first respondent/ plaintiff and the petitioner/10th defendant with the defendants 1 to 6 and therefore, the petitioner is entitled to transpose himself as plaintiff.

6. If the petitioner is aggrieved by the prayer sought for by the first respondent/plaintiff, he should have filed necessary counter claim, as soon as he entered appearance. However, he remained exparte and at the later point of time, he filed the instant application seeking transposition of himself as plaintiff under Order XXIII Rule 1A CPC. The relevant provision reads as follows.



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1-A. When transposition of defendants as plaintiffs *may be*

permitted. - *Where a suit is withdrawn or abandoned by a plaintiff under rule 1 and a defendant applies to be transposed as a plaintiff under rule 10 of Order-I, the court shall, in considering such application, have due regard to the question whether the applicant has a substantial question to be decided as against any of the other defendants.*

7. A close reading of the said provision would indicate that the defendant can be transposed as plaintiff only in case, where suit was withdrawn or abandoned by the plaintiff. In the case on hand, the plaintiff is very well get along with the suit and he has not abandoned his claim. In such circumstances, the Trial Court rightly dismissed the application filed by the petitioner on the ground that the ingredients of Order 23 Rule 1A are not satisfied. I do not find any error in the impugned order to interfere with the same.

8. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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Internet: Yes

Index: yes/no

Neutral citation: Yes/No

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To

The I Additional District Judge,
Coimbatore.



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S. SOUNTHAR, J.

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