



WEB COPY

CRP No. 5794 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 5794 of 2025

THIRUMATHAL

..Petitioner(s)

Vs

VIGNESWARAN

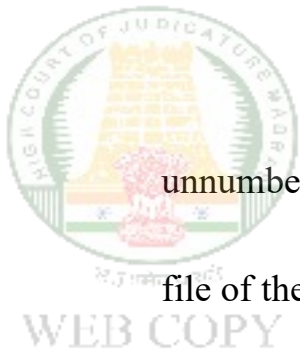
..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Learned District Munsif Court, Dharapuram to number the Interlocutory application in Unnumbered I.A. No. (CFR No. 3563) of 2025 in OS No. 329 of 2005 on the file of the Learned District Munsif Court, Dharapuram.

For Petitioner(s): Mr.M.Guruprasad

ORDER

This Civil Revision Petition has been filed seeking a direction to direct learned District Munsif, Dharapuram to number the Interlocutory application in



unnumbered I.A. No. (CFR No. 3563) of 2025 in OS No. 329 of 2005 on the file of the District Munsif Court, Dharapuram.

2. Heard, Mr.M.Guruprasad, learned counsel for the petitioner.

3. In the preliminary decree passed, the trial Court in the judgment, found the revision petitioner's entitlement to a share in the suit property. However, it has not declared the share in OS No. 329 of 2005 on the file of the Learned District Munsif Court, Dharapuram in favour of the petitioner. The petitioner was a third party to the proceedings. Hence, the petitioner filed a suit for partition in O.S.No.63 of 2022 before the Subordinate Court, Dharapuram. The said suit however came to be dismissed on the ground of suppression of the earlier proceedings, namely the petitioner having deposed as PW2 in O.S.No.329 of 2005 and the same was not disclosed in the submission.

4. After dismissal of the suit, the petitioner decided to take out an application in I.A. No. (CFR No. 3563) of 2025 in OS No. 329 of 2005 for a supplementary decree to be passed, declaring the share of the petitioner. The



said application was returned by the trial Court stating that the petitioner is not a party in O.S.No.329 of 2005 and this petition is not maintainable.

5. Though I find that the petitioner has not been arrayed as a defendant, he has participated in the trial and I find in the judgment passed, the trial Court had granted preliminary decree in favour of the plaintiff (his own brother's son). There is a clear finding that she has a share in the suit property. It is also brought to my notice that the said decree has become final. In the said circumstances, it is not inappropriate to have moved an interlocutory application, seeking for additionally declaring the share of the petitioner, findings having been rendered in the judgment, in the very same proceedings.

6. The trial Court ought not to have disposed of the application in unnumbered I.A. No. (CFR No. 3563) of 2025 in OS No. 329 of 2005 as not being maintainable on the ground that the petitioner is not a party in the said suit. Being a suit for partition, the trial Court ought to have numbered the application and after hearing the parties, should have disposed the application on merits, instead of rejecting the application on the grounds of maintainability.

Further, this Court in the case of *Selvaraj and others vs. Koodankulam*



Nuclear Power Plant Indian Ltd reported in ***2021 SCC Online Mad 2514***, has

laid down guidelines for the trial court to follow, insofar as the numbering of suits and applications are concerned and this Court has specifically held that the trial court cannot conduct roving enquiry at the stage of numbering the application or suit and if it at all the court apprehends that the application is not maintainable, then it will be incumbent upon the trial Court to decide the matter in open court, after hearing the learned counsel for the applicant before passing further orders.

7. In the light of the above discussions, I am inclined to direct the learned District Munsif, Dharapuram to number the interlocutory application in unnumbered I.A.No.(CFR.No.3563) of 2025 in O.S.No.329 of 2005, if it otherwise in order and after giving an opportunity to both the plaintiff and the defendant in O.S.No.329 of 2005, as well as the Revision Petitioner, dispose of the same on merits and in accordance with law.

8. With the above observations and directions, this Civil revision petition stands disposed of. No costs.



9. Registry is directed to return the original affidavit and petition in unnumbered I.A.No.(CFR.No.3563) of 2025 in O.S.No.329 of 2005 to the learned counsel for the petitioner within a period of one week from the date of receipt of a copy of this order, after obtaining necessary acknowledgement, enabling him to represent the same before the trial court.

18-11-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

mpl

To

The District Munsif, Dharapuram.



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P.B.BALAJI J.

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