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CRP No.6078 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6078 of 2025 and
CMP No.29926 of 2025**

1. M.Karuppanasamy
S/o.Late. Marappa Gounder, D.No.386,
Nadukorai Thottam, Vettukkarai,
Kugalur Vilage, K.Mettupalayam Post,
Gobichettipalayam Taluk,
Erode District.

2.K. Sreenivasan
S/o. M. Karuppusamy, D.No.386,
Nadukorai Thottam, Vettukkarai,
Kugalur Village, K. Mettupalayam Post,
Gobichettipalayam Taluk,
Erode District.

Petitioner(s)

Vs

1. PARAMESHWARI
W/o.Muthuvelappan,
D/o.Late.Marappagounder, Uthukkadu,
Chithode Village,
Erode Taluk and District.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 26.09.2025 made in IA No.3 of 2025 in OS No.657 of 2022 on the file of the III Additional District Judge, Erode, Gobichettipalayam by allowing the above CRP.

For Petitioner(s): Mr. A.V. Arun



CRP No.6078 of 2025

WEB COPY

ORDER

This Civil Revision Petition is filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioners/1st and 2nd defendants, seeking to reject the plaint.

2. The respondent herein/plaintiff filed a suit in O.S.No.657 of 2022 against the petitioners herein and others seeking partition and also to set aside the partition deed dated 06.08.2008. In the suit, trial has already commenced and the plaintiff was examined as PW1. At this stage, based on the admission made by the PW1 in the witness box, the petitioners/defendants 1 and 2 filed the instant application seeking to reject the plaint. The said application was dismissed by the Trial Court. Aggrieved by the same, the petitioners have come before this court.

3. The learned counsel for the petitioners would submit that the suit filed by the respondent to set aside the partition deed dated 06.08.2008 is barred by limitation. He further submits that earlier, plaintiff's sister's daughter, namely Vairamani filed a similar suit in O.S.No.270 of 2010 and the same was dismissed for default and the order passed in the said suit was admitted by the plaintiff, when she was examined as PW1. Therefore, according to him, it is



clear that the first respondent/plaintiff acquired knowledge about the impugned partition deed long back and hence, the present suit filed in the year 2022 is hopelessly barred by limitation.

4. It is settled law that as far as the petition to reject the plaint is concerned, the court is guided only by the averments contained in the plaint and plaint documents. For the purpose of rejection of plaint, the court cannot take into consideration the evidence recorded during trial.

5. In the plaint, it was stated by the first respondent/plaintiff that she put her signature in the impugned document, without knowing the contents of the same, on the belief that it was a mortgage deed. It is further stated that she acquired knowledge of the document only when she got certified copy of the same. In view of the specific averments made in the plaint regarding knowledge acquired by the first respondent, we cannot state that the suit is barred by limitation, based on the averments contained in the plaint or based on the plaint documents. In the case on hand, according to the learned counsel for the petitioners, the first respondent/plaintiff made a vital admission regarding earlier knowledge with regard to the impugned partition deed, when she was examined as PW1. For the purpose of considering the application to reject the plaint, we cannot rely on the evidence recorded during trial. Any admission



CRP No.6078 of 2025

made by the first respondent during trial can be relied on by the petitioner only at the time of advancing argument in the suit. Therefore, I do not find any error in the impugned order passed by the Trial Court.

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

01.12.2025

Internet: Yes
Index: yes/no
Neutral citation: Yes/No
MST

To

The III Additional District Judge,
Erode at Gobichettipalayam.



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CRP No.6078 of 2025

S. SOUNTHAR, J.

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