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C.R.P.No.6173 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.6173 of 2025
and
C.M.P.No.30338 of 2025

R.Vijayalakshmi

... Petitioner

VS.

1.Raju @ Raja

2.Sekar

3.Nallammal

4.Alamelu

Pongiammal (died)

Mani (died)

Malliga (died)

Saraswathy (died)

5.Alamelu

6.Parameshwari

7.Palaniammal

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8.Amsaveni

9.Sengodan

10.Kaliannan

11.Murugesan

12.Rajammal

13.Sekar

14.Chandra

15.Nirmala

16.Ramayee

17.Viji

18.Gowrisankari @ Nivetha (Minor)

D/o. Late. Senthilmurugan,
Rep. By Next Friend Guardian/Mother Viji,
Nos.17 and 18 are residing at
Palanikadu,
Valrasapalayam,
Modamangalam Post,
Tiruchengode Taluk,
Namakkal District.

19.Vijaya

Senthilmurugan (died)

20.Sumathi



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21.M.Raju

22.Malathy

23.Harish

24.Sowrish, (Minor)
S/o. Late. Senthil Murugan
Rep. By Guardian/Mother Jothi

25.Jothi

26.Ganesamoorthy

27.Parimala

28.Baby Sasi

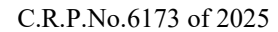
... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 27.10.2025 made in I.A.No.15 of 2025 in O.S.No.118 of 2008 on the file of the learned Sub Court, Sankari by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manoharan

ORDER

The Civil Revision Petition is filed challenging the order passed by the Sub Court, Sankari in I.A.No.15 of 2025 in O.S.No.118 of 2008, dated



27.10.2025 dismissing the application filed by the petitioner seeking amendment of the plaint.

2. The petitioner herein is the 10th defendant in the suit. The respondents 1 to 3 filed a suit for partition in O.S.No.118 of 2008 on the file of the Subordinate Court, Sankari. The same was resisted by the petitioner and other defendants by filing written statement. The trial in the suit is already commenced and two witnesses were examined on the side of the plaintiffs. After closure of the evidence on the side of the plaintiffs, the instant application has been filed by the petitioner/10th defendant seeking to include certain properties as suit properties on the ground that those properties are also available for partition. The said petition was dismissed by the Trial Court. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the properties sought to be introduced were dealt with in a partition between the defendants 16 to 22. Therefore, the said properties shall be included in the plaint schedule as the same is also available for partition as ancestral



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properties of the plaintiffs and defendants.

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4. It is seen from the typed-set of papers, the instant application has been filed by the petitioner after closure of evidence on the side of the plaintiffs. The suit was filed in the year 2008. The petitioner, who was arrayed as 10th defendant in the suit filed her written statement as early as 13.04.2010. Subsequently, an additional written statement was also filed by the 10th defendant. In the written statement, the petitioner herein has not raised any plea with regard to the availability of the other properties for partition. Now, after commencement of trial, the instant application has been filed stating that the properties sought to be included were dealt with by defendants 16 to 22 in a partition among them.

5. As per proviso to Order 6 of Rule 17 of the Civil Procedure Code, the party applying for amendment, shall satisfy the Court as to what prevented him from seeking amendment prior to commencement of the trial. In the affidavit filed in support of the present amendment application, the petitioner has not given any reason for her failure to seek amendment prior to commencement of the trial. The Supreme Court in *Vidyabai and others*



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vs. Padmalatha and another reported in **(2008) 17 S.C.R.505 =**

MANU/SC/8401/2008, held that Proviso to Order 6 Rule 17 of Civil Procedure Code is mandatory and in view of non-compliance of said provision, the amendment petition filed by the petitioner is liable to be dismissed.

6. According to the petitioner, the properties sought to be included were dealt with by defendants 16 to 22 in a partition among them in the year 1986. Merely because, the properties were included in a partition among defendants 16 to 22, we cannot readily come to a conclusion that the same is the ancestral properties of the plaintiffs and other defendants. Therefore, the petitioner has no *prima facie* material to show that the properties in question are the ancestral properties. In such circumstances, I do not find any material irregularity in the order passed by the Sub Court, Sankari in I.A.No.15 of 2025 in O.S.No.118 of 2008, dated 27.10.2025.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.12.2025



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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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S.SOUNTHAR, J.

dm

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