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CRP.No.6472 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6472 of 2025 and
CMP No.31962 of 2025**

1. A.Dharmalingam,
S/o. Arunachalam, 13/42,
Nadupalayam, Chithode Village,
Erode Taluk and District.

Petitioner(s)

Vs

1. Saraswathy
W/o. Late Ramasamy Gounder,

2.Dhavamani
W/o. Thiyagarajan,

3.Eswaramoorthy,
S/o. Ramasamy Gounder,
respondents 1 to 3 resing at Sukkadan
Thottam, Chinnathambipalayam,
Nagalur Post, Anthiyur Taluk,
Erode-501.

4.Jothimani
W/o. Arunachalm, 9/4, STC Residency,
Lakshmi Theatre Road, Chithode Post,
Erode Taluk, Erode-102.

Respondent(s)

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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the petition order dated 25.10.2025 passed by the Learned IV Additional District Court, Bhavani in IA (CFR) No. 8041 of 2025 in S NO. 35 of 2018.

For Petitioner(s): Mr.L. MOULI

ORDER

This Civil Revision Petition is filed, challenging the order passed by the Trial Court, dismissing the application filed by the petitioner, seeking direction to the defendants to begin trial and lead evidence, even before the plaintiff lead evidence.

2. The petitioner herein/plaintiff filed a suit for partition against the defendants. The petitioner is grand son of first defendant and son of 4th defendant. The defendants 2 to 4 are daughters and son of first defendant and siblings of 4th defendant. It is the specific case of the petitioner that the suit properties are ancestral properties of the defendants and the 4th defendant sold her own undivided $\frac{1}{4}$ share in favour of the plaintiff and hence, the suit was laid for partition seeking $\frac{1}{4}$ share in the suit property.

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3. The first defendant filed a written statement and the same was adopted by the defendants 2 and 3. It was the case of the respondents/defendants that the properties including the suit properties are separate properties of the parents of Ramasamy Gounder and the suit property was allotted to the share of Ramasamy Gounder as Class-I heir. It was the further case of the defendants 1 to 3 that the said Ramasamy Gounder is husband of first defendant and he executed a Will bequeathing the suit property in favour of defendants 1 and 3 and as such, the 4th defendant had no right to alienate any portion of the suit property in favour of the petitioner.

4. The petitioner filed the instant application seeking direction to the defendants to begin trial by leading evidence. If the contention of the defendants that the suit property was self acquired property is admitted by the petitioner/plaintiff, he is entitled to seek direction to the defendants to lead evidence and prove the case. On the other hand, in the plaint averments, the petitioner/plaintiff stated that the suit properties were ancestral properties and hence, the plaintiff is entitled to $\frac{1}{4}$ share in the suit property. Therefore, the initial burden is on him to prove that the suit properties are ancestral



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properties. In such circumstances, the application filed by the petitioner/
plaintiff seeking a direction to the defendants to commence trial is
misconceived. Though the Trial Court's rejection of the application on the
ground that the suit was very old one and hence, the request of the petitioner
could not be considered is not sound, this court is in agreement with the final
conclusion of the Trial Court, on different reasoning.

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

18.12.2025

Internet : Yes
Index : Yes / No
Neutral Citation: Yes/No
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To

The IV Additional District Judge, Bhavani.



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S.SOUNTHAR , J.

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