



CRP(MD). No.203 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10/09/2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

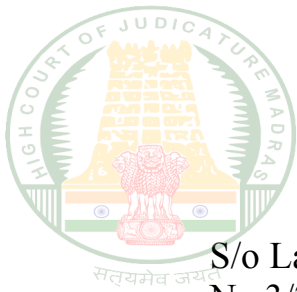
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and
CMP(MD)No.1008 of 2023

1. Amaravathi,
2. Perumalsamy,
3. Srinivasan,
4. Marichamy,
5. Dhanalashmi,

... Petitioners

Vs

1. Sulochana,
W/o Late.Venkatasamy,
No.3/21, Ettakapatti, Ethirkottai,
Sivakasi Taluk,
Virudhunagar District.
2. Rajesh,
S/o Late.Venkatasamy,
No.3/21, Ettakapatti, Ehirkottai,
Sivakasi Taluk,
Virudhunagar District.
3. Dineshkumar,



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S/o Late.Venkatasamy,
No.3/21, Ettakapatti, Ehirkottai,
Sivakasi Taluk,
Virudhunagar District.

4. Jayaselvi,
D/o Late.Venkatasamy,
No.3/21, Ettakapatti, Ehirkottai,
Sivakasi Taluk,
Virudhunagar District.

... Respondents

PRAYER :-

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 27-10-2022 passed in I.A.No.6 of 2022 in O.S.No.38 of 2012 on the file of Sub Court, Sivakasi, allow this civil revision petition with costs.

For Petitioner : M/s.A.Sivaji,
Advocate.

For Respondent : Mr.M.Solaisamy

ORDER

This Civil Revision Petition is filed to challenging the fair and final order dated 27-10-2022 passed in I.A.No.6 of 2022 in O.S.No.38 of 2012 on the file of Sub Court, Sivakasi and to set aside the same.

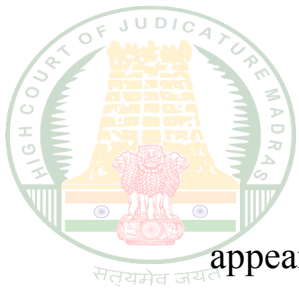
2. Learned counsel for the petitioners would submit that the



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respondents herein had instituted a suit for partition of the suit schedule property by its metes and bounds in which, the petitioners who are the defendants had also filed their written statement. Having filed a suit in respect of various properties, the present application had been filed by the respondents herein, to delete certain of the properties from the purview of the partition suit which would affect their defence taken in the suit. The Court below without considering the same, had allowed the amendment as prayed for by the respondents herein. Hence he seeks interference with the order impugned herein. He would further submit that the said application only with respect to suit items 1, 2 and 5 of the suit properties has been made with an intention to only delay the proceedings as the second plaintiff himself had admitted that items 1, 2 and 5, the item No.8 of the schedule property has also been sold during the lifetime of the father. Therefore, the present application restricting it to only three of the items would indicate that to protract the proceedings, the respondents would take further application at a later date to delete item No.8.

3. Countering his argument, Mr.M.Solaisamy, learned counsel

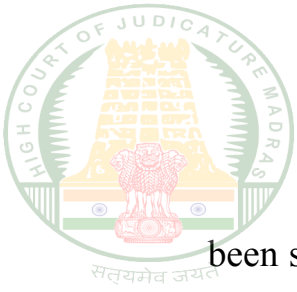


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appearing for the third respondent would contend that the defendants have also pleaded in the written statement that items 1,2,5 and 8 are not available for partition. When that being the case, even without the amendment, the claim could have been decided. Therefore, he would submit that the property that sought to be deleted having been sold by the predecessor in interest even during his lifetime, therefore, no prejudice could be caused to the petitioners, if such properties are deleted from the schedule of the suit. When the second plaintiff who had also been examined as P.W.1 had admitted to the sale by the predecessor in interest and therefore the said properties could not be proceeded. Only for that purpose, the present application has been filed and also has been rightly allowed by the Court below. Therefore, he seeks dismissal of the present Civil Revision Petition.

4. This Court has considered the submissions made by the learned counsel appearing for the respective parties and perused the materials available on record.

5. It is not disputed by both the parties that items 1, 2, 5 and 8 had



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been sold by their predecessor in interest even during the life time, which would only mean that the said properties would not be available for partition between the parties. The second respondent / second plaintiff who had examined himself as P.W.1 had also admitted in his cross examination that the predecessor in interest of the parties have disposed of items 1, 2, 5 and 8 of the suit property. In such circumstances, this Court is unable to comprehend the prayer seeking only deletion of items 1, 2 and 5 of the suit schedule property. P.W.1 having admitted that the predecessor in interest has sold items 1,2,5 and 8 which has also been admitted by the petitioners who are the defendants, this Court is of the view that application filed by the respondents should also have been included item No.8 of the suit schedule property.

6. Since there has been a clear admission that the items 1,2,5 and 8 have been sold even during the lifetime of the predecessor in interest of the parties, the said items cannot be subject matter of the partition suit initiated by the respondents herein.

7. In such view of the matter, this Court finds no merit as claimed



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in this Civil Revision Petition and considering the admitted facts as enumerated supra, this Court directs the suit to be proceeded with, by excluding item Nos.1,2,5 and 8 of the suit schedule properties. The respondents who are the plaintiffs are directed to carry out the necessary amendments on or before 28.09.2025 and the suit shall be proceeded thereafter. Further considering that the suit for partition had been instituted as early as on 2012, the Court below shall dispose of the suit in O.S.No.38 of 2012 as expeditiously as possible but however not later than six months from the date of receipt of a copy of this order.

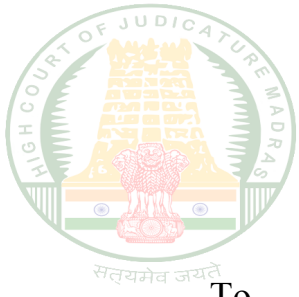
8. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

10.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Note : Issue order copy on **24.09.2025**

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To
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- 1.The Subordinate Judge, Sivakasi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.KUMARESH BABU, J.

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ORDER
IN
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and
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Date : 10/09/2025