



C.R..P.(MD).No.340 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(MD)No.340 of 2023
and
CMP (MD) No.1656 of 2023

Subin

... Petitioner

Vs.

1.Leelamma

2.Betcy

3.Jessy
(Respondents 2 and 3 impleaded
by the order of this Court dated 28.08.2025)

... Respondent(s)

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to call for the records relating to Fair and Decreetal order passed by the District Munsif Court, Kuzhithurai in I.A. 576 of 2018 in O.S.67 of 2017, dated 31.10.2022 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : M/s.J.Anandhavalli for R1
Mr.C.Godwin for R2
Mr.R.Murugan for R3



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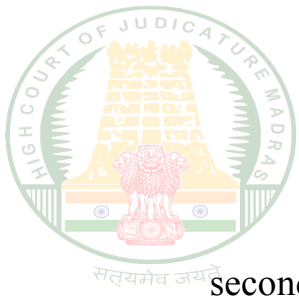
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ORDER

This Civil Revision Petition is filed challenging the decreetal order dated 31.10.2022, whereby the learned District Munsif, Kuzhithurai, has rejected the interlocutory application seeking to reject the plaint under Order VII Rule 11 of CPC.

2. The civil revision petitioner is the first defendant, and the first respondent herein is the plaintiff in O.S. No. 67 of 2017 on the file of the District Munsif Court, Kuzhithurai. The said suit was filed by the first respondent/plaintiff seeking a declaration that the settlement deed executed by the second defendant (father) in favour of the first defendant (son) is null and void. Subsequently, the revision petitioner filed I.A. No. 576 of 2018 in O.S. No. 67 of 2017, seeking rejection of the plaint. However, the said application was dismissed by the trial Court. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition. Aggrieved by the same, the petitioner has filed the present civil revision petition.

3. The learned counsel for the petitioner submitted that the first respondent/plaintiff is none other than the mother of the petitioner and the



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second defendant was the petitioner's father, who has since passed away. The petitioner's sisters, namely, Betsy and Jessy were impleaded subsequently by way of CMP (MD) Nos. 12594 of 2025 and 11055 of 2025, as proposed respondents 2 and 3. The suit filed by the first respondent/plaintiff seeks a declaration that the settlement deed executed by the second defendant/father in favour of the petitioner/first defendant, vide Document No. 1125 of 2008 dated 24.04.2008, is null and void and not binding on the plaintiff. The basis for such a declaration is the plaintiff's claim of ownership over the 'A' schedule property situated to the southern side of the 'B' schedule property, which was owned by the second defendant/father. The father, while in sound health, executed the settlement deed in favour of the petitioner, acknowledging the petitioner's contributions during his employment abroad.

4. The learned counsel further submitted that the suit was filed in 2017, almost 9 years after the execution of the settlement deed, which is impermissible and barred under Article 58(3) of the Limitation Act. Secondly, there was no valid cause of action, as the first respondent/plaintiff, being the wife of the second defendant and the petitioner's mother, belonged to the same family and allegedly lacked knowledge of the settlement deed until

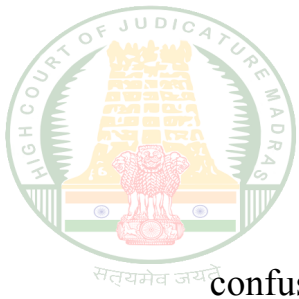


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later. The suit was filed merely to create a false cause of action by alleging interference by the petitioner in rent collection from shops situated in the 'A' schedule property. It was only thereafter, she claimed, that she discovered that the boundaries had been wrongly recorded in the settlement deed, which allegedly gave rise to the cause of action. These claims, as it is argued, are untenable. On these grounds, the petitioner filed an application under Order VII Rule 11 of CPC, which was mechanically rejected by the trial Court. Accordingly, he prayed to allow the revision petition.

5. Per contra, the learned counsel appearing for the first respondent/plaintiff submitted that the first and second defendants have five children, including the petitioner, who is the eldest son, three daughters, and one younger son. Of these, only one daughter is married and the others, except the petitioner, remain unmarried. Therefore, the first respondent/plaintiff and the second defendant/father were duty-bound to show equal love and affection to all their children. The execution of the settlement deed solely in favour of the petitioner is, therefore, highly questionable. The plaintiff has specifically averred in paragraph No. 8 of the plaint that the second defendant/father, due to his old age and illness, was in a



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confused state of mind and that the petitioner took advantage of the same by obtaining the settlement deed through false promises. Accordingly, the learned counsel prayed for dismissal of the revision petition.

6. The learned counsel appearing on behalf of the respondent 2 and 3 submitted that, although the suit was filed in the year 2017, the petitioner was set ex parte on 20.04.2018. Thereafter, a petition for restoration was filed. Subsequently, the petitioner filed an application under Order VII Rule 11 CPC on 17.11.2018, which was dismissed on 31.10.2022. Again, the petitioner was set ex parte on 16.12.2022 and till date, respondents 2 and 3 are not aware whether the petition was restored or any further steps have been taken by the petitioner.

7. Heard the learned counsel for the parties and perused the materials available on record.

8. Considering the submissions made by both the parties and on perusal of the pleadings and materials on record and in the light of the serious contentions raised by the respondents, this Court is of the considered opinion



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that issues are triable and cannot be disposed of at the threshold under Order VII Rule 11 CPC. These allegations can only be tested during trial and not at the stage of an application under Order VII Rule 11 of CPC. Furthermore, while alive, the second defendant/father filed a written statement stating that the petitioner had obtained his signature on blank papers under the guise of applying for a bank loan to support his business, and subsequently used those signatures to execute the settlement deed. Therefore, this Court finds that the trial Court rightly dismissed the petitioner's application under Order VII Rule 11 CPC. The impugned order does not suffer from any illegality or material irregularity warranting interference by this Court in exercise of its revisional jurisdiction under Section 115 CPC.

9. In the result, the civil revision petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28.08.2025

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

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- To
- 1.The District Munsif Court, Kuzhithurai.
 2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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