



C.R.P(MD)No.346 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.02.2025**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.346 of 2025

and

C.M.P(MD)No.1987 of 2025

Annakamu.P

... Petitioner/Petitioner/
Plaintiff

Vs.

1.Asaithambi

2.Ashok Kumar

3.Karthi

4.Shanthi

5.Chinnaiah

6.Arun Pandi

... Respondents/ Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 17.10.2024 passed in I.A.No.9 of 2024 in O.S.No.184 of 2015 on the file of the learned Additional Sub Court, Dindigul and to stay the proceedings till the

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C.R.P(MD)No.346 of 2025

disposal of this main revision petition.

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For Petitioner : Mr.J.Bharathi Veerakumar

ORDER

The plaintiff in O.S.No.184 of 2015 on the file of Additional Sub Court, Dindigul is the revision petitioner herein.

2. The revision petitioner herein has filed the above said suit for recovery of sum of Rs.1,33,733/- along with interest based upon a registered mortgage deed, dated 16.04.2001. In the said suit, the evidence on either side was closed and the suit was posted for arguments. At that stage, the plaintiff has filed an application to reopen his side to let in evidence. That application was allowed by the trial Court. Thereafter, the plaintiff has filed I.A.No.9 of 2024 to examine one Kalaiselvi and defendants 2, 3, 4 and 6 as the witnesses on the side of the plaintiff. This application was dismissed by the trial Court. Challenging the same, the present revision petition has been filed.



C.R.P(MD)No.346 of 2025

3. According to the learned counsel appearing for the petitioner, already a partition suit was filed, in which the plaintiff was the defendant and the other defendants in the suit were parties. There was a collusion among the defendants in the said suit. So far, final decree proceedings have not been initiated. Unless the sister of the 1st defendant, namely Kalaiselvi and defendants 2,3,4 and 6 are examined as witness in this case, the plaintiff will not be in a position to establish his case.

4. A perusal of the prayer in the plaint would reveal that the suit is for recovery of money based upon a registered mortgage. The entire burden will be upon the plaintiff to establish the genuineness and validity of the said mortgage deed for getting a decree for recovery of money. In such circumstances, a non-party to the suit, namely Kalaiselvi cannot be examined. That apart, the plaintiff cannot compel defendants 2, 3, 4 and 6 to be examined as witnesses on the side of the petitioner. The trial Court has rightly dismissed the said application. This Court does not find any reason to interfere with the order.



C.R.P(MD)No.346 of 2025

WEB COPY

5. Hence, this Civil Revision Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

07.02.2025

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

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To

- 1.The Additional Sub Court,
Dindigul.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.346 of 2025

R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.346 of 2025

07.02.2025