



C.R.P(MD)No.342 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.342 of 2025

and

C.M.P(MD)No.1940 of 2025

1.Mallika

2.Santhi

3.Shanmugapriya

4.Karthick

... Petitioners/Petitioners/
Defendants 2, 4-6

Vs.

1.Nagajothi Ammal

2.Subbulakshmi Ammal

3.Mariammal

... Respondents/Respondents 1-3/
Plaintiffs

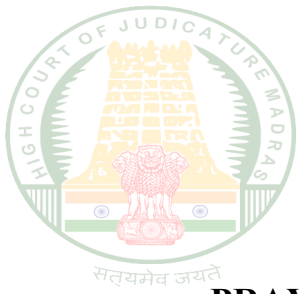
4.Vijayakumar

5.P.Ganesan

6.T.Ganesan

... Respondents/Respondents 4-6/
Defendants 3, 7 & 8

1/6



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 02.12.2024 passed in I.A.No.11 of 2024 in O.S.No.5 of 2011 on the file of the Subordinate Court, Kovilpatti.

For Petitioner : Mr.R.J.Karthick

For R5 : Mr.S.Kadarkarai

ORDER

The defendants 2, 4 to 6 in O.S.No.5 of 2011 on the file of Sub Court, Kovilpatti are the revision petitioners herein.

2. The respondents 1 to 3 herein as plaintiffs have filed the above said suit for the relief of partition and separate possession. The plaintiffs have also prayed for permanent injunction as against the defendants not to encumber the suit schedule property.

3. When the suit is posted for arguments, the revision petitioners herein have filed I.A.No.11 of 2024 seeking permission of the Court to receive the counter claim. A perusal of the counter claim application



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reveals that the plaintiffs have entered into a sale agreement with the defendants 7 and 8 pending suit. Therefore, the defendants have filed the counter claim to set aside the said sale agreement. The said application has been dismissed by the trial Court on the ground that it has been filed belatedly. Challenging the same, the present revision petition has been filed.

4. According to the learned counsel appearing for the revision petitioners, the defendants 7 and 8 who are the agreement holders have already been impleaded in the suit. The plaintiffs have entered into a sale agreement with them pending suit. Unless the Court permits the defendants to raise a counter claim, the suit cannot be properly adjudicated.

5. Per contra, the learned counsel appearing for the fifth respondent had contended that there is a specific clause in the sale agreement that the sale deed has to be executed only after the suit is decreed. Therefore, the question of setting aside the sale agreement does not arise.



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WEB COPY 6. Heard the learned counsel on either side and perused the material records.

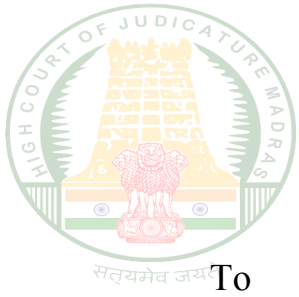
7. Admittedly, a sale agreement has been entered into by the plaintiffs pending suit for partition in favour of defendants 7 and 8. Therefore, there is no necessity to set aside the sale agreement. It is needless to point out that the rights arising under the sale agreement are subject to the result of the suit. Further, when the suit is posted for arguments on the side of the defendants, the present application has been filed. In such circumstances, this Court does not find any reason to interfere in the order of dismissal passed by the trial Court.

8. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
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- 1.The Subordinate Court,
Kovilpatti.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.R.P(MD)No.342 of 2025

19.02.2025