

C.R.P.(PD)(MD)No.493 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.493 of 2024

and

C.M.P.(MD)Nos.2471 of 2024 and 10694 of 2025

Vimala Chandrakantham

... Petitioner

Vs.

- 1.A.R.V.Jegannathan
- 2.J.Kalpana
- 3.J.Kirijarani
- 4.A.R.V.Jeyaraman
- 5.J.Sridharan
- 6.G.Vijayalakshmi
- 7.G.Janardhanan

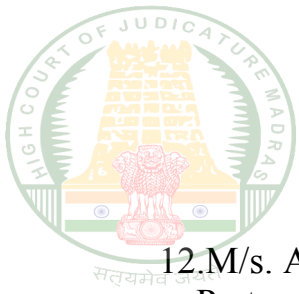
A.R.V.Ramachandran (died)
R.Muthala Athi Appasamy (died)

8.M.Rajaram

A.R.V.Jagadheesan (died)

- 9.J.Vasanthi
- 10.M.Sheelpriya

11.A.R.Venkitasamy Naicker And Sons,
Partnership Firm,
Rep Through its One of the Partner A.R.V.Jagatheesan
Door No.166, Municipality Office Road,
Virudhunagar Nagar,
Virudhunagar District.



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12.M/s. A.R.V.Jegatheesan and CO.,,

Partnership Firm,

Rep Through its one of the Partner A.R.V.Jagatheesan

Door No.166, Municipality Office Road,

Virudhunagar Nagar,

Virudhunagar District.

13.M/s. A.R.V.Ramachandran and Co.,, Partnership Firm,

Rep Through its One of the Partner A.R.V.Ramachandran,

Door No.166, Municipality Office Road,

Virudhunagar Nagar,

Virudhunagar District.

14.Tamilnadu Mercantile Bank,

Rep Through its Manager,

Virudhunagar Branch,

Virudhunagar District.

15.Central Bank of India,

Rep Through its Manager

Virudhunagar Branch,

Virudhunagar District.

16.S.Gopal Appasamy

17.D.Devarajan

18.T.Govindaraj

19.P.Chandramohan

20.G.Rajendran

21.C.Vadivel

22.A.R.R.Seenivasan

23. G.Veerasamy

24.Sri Dhandayuthapani Kovil Trust,

Rep by its Trusty V.Vijayakumar

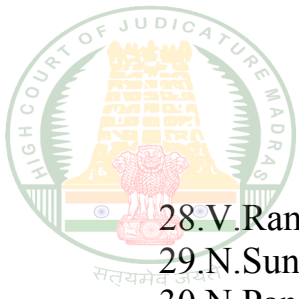
No.30, Krishnamachari Road,

Virudhunagar District.

25.S.A.Balasubramaniam

26.V.D.Nagapoosanam Nadar

27.V.Vijayakumar



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28.V.Ramasamy
29.N.Sundaramoorthy
30.N.Pandi
31.S.M.R. Mahendran
32.E.Ramanujam
33.S.Rajagopal
34.E.Josva Milton
35.R.Chindhamani Ammal
36.R.Surendrakannan
37.R.Rajagopal

R.Parthasarathy (died)

38.R.Senthamaraiselvi
39.J.Prema
40.Aparna
41.L.Dhamodharan

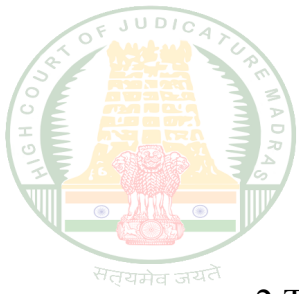
... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.04 of 2023 in O.S.No.02 of 2014 on the file of the Additional District and Sessions Court, Virudhunagar dated 11.11.2023.

For Petitioners : Ms.P.Jessi Jeeva Priya
For R1 & R2 : Mr.L.Siva
For R3 to R41 : Given up

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.04 of 2023 in O.S.No.02 of 2014 on the file of the Additional District and Sessions Court, Virudhunagar, dated 11.11.2023.



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2.The petitioner is the second plaintiff in O.S.No.02 of 2014 in the partition suit filed as against the respondent/defendant. When the suit is pending, the defendants 6 and 7 filed an interlocutory application in I.A.No.4 of 2023 to stay the suit proceedings in O.S.No.2 of 2014 on the ground that they have filed a second appeal before this court in S.A.(MD)No.119 of 2008 as against the judgment and decree passed in the suit filed with regard to some of the properties mentioned in the suit filed by the petitioner. The trial Court has also granted an order of stay of all further proceedings in O.S.No.2 of 2014 till the disposal of the second appeal in S.A.No.119 of 2008. Challenging the same, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel for the petitioner submitted that the respondents filed a suit for specific performance in O.S.No.80 of 1996 on the file of the District Munsif Court, Virudhunagar for specific performance of the sale agreement entered with their own mother. The said suit was dismissed on 30.06.2006. As against which, an appeal suit was filed in A.S.No.20 of 2007 on the file of the Sub Court, Aruppukottai and the same was also dismissed on 22.08.2007. As against the concurrent finding, the respondents preferred a second appeal before this Court in S.A.(MD)No.119 of 2008 and the same is pending. The respondents only on the ground that the second appeal filed by



the respondents for specific performance is pending, has obtained an order of interim stay of the partition suit. Therefore, the stay granted by the trial Court is liable to be interfered.

4.Per contra, the learned counsel for the respondents 1 and 2 contended that the first and second respondents filed a suit in O.S.No.80 of 1998 for specific performance as against their mother. Since both the Courts below has held as against the respondent, they filed a second appeal in S.A.(MD)No.119 of 2008 and the same is pending before this Court. If the partition suit is disposed, the same will cause serious prejudice to the respondents 1 and 2.

5.Heard the rival submissions made on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. Admittedly, the petitioner filed a suit for partition with regard to the suit schedule property in O.S.No.02 of 2014 and the respondents have filed a suit in O.S.No.80 of 1996 for specific performance with regard to some of the properties mentioned in the partition suit filed by the petitioner. The respondents are also one of the share holders of the properties mentioned in the partition suit and they are entitled to claim a share allotted to their mother, for which they cannot stall the entire suit



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instituted by the petitioners seeking partition and the same is not sustainable.

Therefore, this Court is inclined to interfere with the order of stay passed by the trial Court.

7. Accordingly, the order passed by the trial Court in I.A.No.4 of 2023 is hereby set aside and this Civil Revision Petition is allowed. In view of the fact that the suit is pending from the year 2014, the trial Court is directed to dispose of the suit within a period of one year from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

28.07.2025

Index : Yes/No
Internet : Yes / No

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To

1. The Additional District and Sessions Court,
Virudhunagar.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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