



C.R.P.(MD)No.748 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.748 of 2025

and

C.M.P.(MD)No.3975 of 2025

1.Ponni @ Kamala
2.Jeyarukmani

...Petitioners

Vs.

Thangavelu

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 12.12.2024 passed in I.A.No.2 of 2024 in O.S.No.2 of 2019, on the file of the District Munsif Court, Manamadurai.

For Petitioners : Mr.M.Divakaran

For Respondent : Mr.T.Veerakumar



C.R.P.(MD)No.748 of 2025

WEB COPY

ORDER

This petition has been filed seeking to set aside the decretal order dated 12.12.2024 passed in I.A.No.2 of 2024 in O.S.No.2 of 2019, on the file of the District Munsif Court, Manamadurai.

2.Learned Counsel for the petitioners would submit that the petitioners are the plaintiffs in O.S.No.2 of 2019. They filed a suit for declaration, permanent injunction and recovery of possession. During the plaintiffs evidence, the petitioners wanted to mark unregistered oral partition deed as Ex.A.3 through I.A.No.2 of 2024. However, the trial Court rejected the said application on the ground that an unregistered document may not be marked, by relying on the decision of this Court in the case of ***K.Thirunavukkarasu Vs. Loganberry and others reported in 2018 (5) CTC 883 (Mad)***. Challenging the same, this Civil Revision Petition has been filed.

3.Learned Counsel for the petitioners would submit that admittedly, the 3/4 x 35 feet was encroached by the respondent / defendant. For removal of the same and to declare that the encroached portion belongs to the petitioners, the petitioners filed a suit for declaration before the trial Court and in order to prove



C.R.P.(MD)No.748 of 2025

the title, the petitioners already marked Ex.A.1 and the same was reflected in the subsequent oral partition dated 12.09.1979. He further submits that in order to prove the boundaries and the extent, it is necessary to mark the unregistered document before the trial Court and the same was declined by the trial Court which is untenable and prays for allowing this Civil Revision Petition.

4.Learned Counsel for the respondent would submit that the petitioners claim title over the property and it is for them to prove the same. Already they filed Ex.A.1, to prove their title. However, the present unregistered partition deed is only between the family members and the same is not binding on the Court or stranger to the document. Thereby, the trial Court, by relying on the decision of this Court rightly dismissed the said petition, which need not be interfered with. Accordingly, he prays for dismissal of this Civil Revision Petition.

5.Admittedly, the petitioners have marked Ex.A.1 to prove their title. Subsequently, seeking to mark an unregistered partition deed is unwarranted for the reason that the unregistered partition deed was executed only between the family members of the petitioners and the same will not be a binding document to prove their title to the property. As per the decision relied on by the trial



C.R.P.(MD)No.748 of 2025

Court while dismissed the I.A.No.2 of 2024, presumption could be raised under

Section 90 of the Evidence Act only to the execution and attestation of the document as such. Hence, the trial Court has rightly dismissed the said application, which need not be interfered with.

6.Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

23.06.2025

Internet:Yes/No

Index:Yes/No

MR



WEB COPY



C.R.P.(MD)No.748 of 2025

To

- 1.The District Munsif Court,
Manamadurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.748 of 2025

M.DHANDAPANI, J.

MR

C.R.P.(MD)No.748 of 2025

23.06.2025